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Declaration of Condominium for  
Royal Poinciana Industrial Park Condominium No. 1

MADE this 26th day of MARCH, 1998, by Garop Developers, Inc., a Florida Corporation, hereinafter called the "Developer", the owner in fee simple title to the land described herein and by which the Developer makes the following declaration:

I. Submission to Condominium Ownership.

Developer hereby submits to the condominium form of ownership and use of the land described in Article III hereof, the improvements now and thereafter situated thereon, and the easements and rights appurtenant thereto (the "Condominium Property").

II. Name and Address.

The name by which this Condominium is to be identified by is Royal Poinciana Industrial Park Condominium No. 1, sometimes herein called the "Condominium". This Condominium is located in Miami Dade County, Florida on N.W. 61<sup>st</sup> Street.

III. The Land.

The land submitted to the condominium (the "Land") is situated in Miami Dade County, Florida and it is described in Exhibit "1" annexed hereto as a part hereof.

IV. Description of Condominium Property.

The description of the improvements comprising part of the Condominium Property consists of one building of one story. The building contains 6 units.

The identification of the units shall be identified by letter, name or number, or combination thereof, so that no unit bears the same designation as any other unit. Exhibits 1 and 2 of this Declaration of Condominium contains a survey of the Land showing the location of the building, a graphic description of the building contents, the units and the elevations of the buildings, the common elements and the limited common elements in sufficient detail to reflect their respective locations and dimensions prepared and certified by a registered land surveyor in the manner required by the Condominium Act. The improvements are further described as:

A. Buildings: The improvements include one building. The building is one story and contains six units.

B. Other Improvements: In addition to the buildings, the Condominium Property also includes improvements other than buildings such as parking areas, roads, streets, walks, landscaping and all other underground structures and improvements which are not a part of or located within buildings such as wires, cables, drains, pipes, ducts, conduits, valves and fittings.

V. Definition of Units, Common Elements and Limited Common Elements.

The Condominium will consist of "Units", "Common Elements", and "Limited Common Elements".

A. **Units:** The term "Units" as used herein, shall mean and comprise of 6 separate dwellings in the Condominium which are located and individually described in Exhibit "2A" thereto. Each unit shall include the enclosed areas depicted on Exhibit "2B". The horizontal boundaries thereof shall be the vertical plane, or planes, formed by the unfinished or undecorated perimeter interior wall surfaces thereof. The lower vertical boundary shall be the horizontal plane formed by the undecorated or unfinished interior floor surface of the unit and the upper vertical boundary shall be the horizontal plane formed by the undecorated or unfinished interior ceiling surface of the unit. Provided however, all heating, cooling, plumbing apparatus, utility installations and bearing columns or supports within a unit which service more than one unit shall be part of the common elements. Doors, glass, screen and other material covering openings in vertical exterior walls shall be part of the unit.

B. **Common Elements:** The term "Common Elements" as used herein, shall mean and comprise of all the real property on the Condominium except units, including as a part of the Common Elements, without limitations: (1) Easements through units for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and/or fixtures for the furnishing of utility services, heating and cooling and/or ventilation to units and Common Elements; (2) Easements of support in every portion of a Unit which contributes to the support of other units and/or common elements; (3) Installations for the furnishing of utility services to more than one unit or to the common elements or to a Unit other than the unit containing the installation; (4) The property and installations in connection therewith required for the furnishing of services to more than one unit or to the common elements; and (5) Fixtures owned or held for the common use, benefit and enjoyment of all owners of units in this Condominium.

C. **Limited Common Elements:** The term "Limited Common Elements" as used herein, shall mean and comprise of the common elements which are reserved or assigned or granted separately here for the use of a certain unit or units (as an appurtenance thereto) to the exclusion of other units, consisting of ramps abutting each unit as depicted in the Floor Plans, Elevations and Survey of this Condominium included in Exhibit "1 and 2" to Declaration.

D. Developer may reapportion appurtenant interest in Common Elements and shares of the common surplus and common expenses as a result of changes made to Developer-owned Units and/or to Limited Common Elements appurtenant thereto.

E. Developer reserves the exclusive right with or without consideration, to assign parking in the parking facilities appurtenant to Condominium Parcel to one or more units. The parking spaces assigned shall be the exclusive use of the respective units and shall be subject to applicable Miami Dade County ordinances, if any. Developer in its sole discretion shall have the right to assign parking spaces to certain Unit Owners. The assigned parking spaces shall be Limited Common Elements appurtenant to the Units to which they are assigned and shall pass with title thereto, regardless of whether or not referenced in the Deed or other instrument of conveyance. The Maintenance, upkeep and expenses of the assigned parking spaces shall be the responsibility of the Association. The Association shall keep a book of which Unit currently owns which parking spaces. Parking spaces may be assigned to any party other than a Unit Owner.

F. Any ramp or similar area shall be a limited common elements of the Unit(s) which has exclusive physical access thereto. The association shall be responsible for the maintenance of the structural and mechanical elements or any such limited common elements and the units owner shall be responsible for the general cleaning and upkeep of the appearance of the area.

#### VI. Appurtenances to Units.

There shall be appurtenant and pass with title to each condominium unit the right, shares and interests provided by the Condominium Act which shall be deemed to include, without limitation, the following:

A. An undivided share in the Common Elements and in the Common Surplus (as that term is elsewhere herein defined). The undivided share in the Common Elements and the Common Surplus of the Condominium appurtenant to each unit is that proportion of the total set

forth and made a part hereof as Exhibit "3"; and

B. The right to use exclusively those portions of the Common Elements designated and/or reserved herein and/or granted elsewhere or assigned by the Association to a certain Condominium Unit as Limited Common Element; and

C. An exclusive easement for the use of the air space occupied by the Unit as it exists at any particular time (as shown in Exhibit "2C" hereto) and as it may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space permanently vacated from time to time; and

D. Irrevocable, perpetual, non-exclusive easements, to be used and enjoyed in common with the owners of all units in the Condominium for use of those Common Elements not designated elsewhere herein as Limited Common Elements, including without limitation, easements for:

1. The furnishing and maintenance of public utility services to all parties of the real property of the condominium over, across, upon, in and through the land, buildings and other improvements, as the fixtures and equipment therefore now exists and/or may be modified or relocated; and

2. Vehicular and pedestrian access over, across, upon, in and through the drives, entries, gates, walks, grounds and other portions, of any of the Common Elements as are intended and/or provided for pedestrian and vehicular traffic throughout the Condominium; and

3. Pedestrian access, over, across, upon, in and through to drives, entries, gates, walks, grounds and other portions, if any, of the Royal Poinciana Industrial Park Condominium Association, Inc.; and

4. Vehicular and pedestrian access over, across, upon, in and through the drives, entries, gates, walks, grounds and other portions in the paved surfaces, green and open areas in the properties known as Royal Poinciana Industrial Park Condominium Complex.

E. An exclusive easement for the unintentional and non-negligent encroachment by any unit upon any other unit or Common Elements or vice-versa for any reason not caused by or resulting from the willful or negligent act of Developer or any owner or owners including without limitation, encroachments, caused by or resulting from the original construction of improvements, which exclusive easement shall exist at all times during the continuance of such encroachments as easements appurtenant to the encroaching unit or other improvement, to the extent of such encroachment; and

F. An exclusive easement for the use of the area of land and air space occupied by air conditioning compressors, and the equipment and fixtures appurtenant thereto, situated in and/or common elements of the condominium but exclusively servicing and individually owned by the owner of a unit, as the same exists in and on each building and/or unit, which exclusive easement shall be terminated automatically in any air space which is permanently vacated by such air conditioning compressor, and the equipment and fixtures appurtenant thereto; provided, however that the removal of the same for repair and/or replacement shall not be construed to be a permanent vacation of the air space which it occupies; and

G. Membership in the Association designated in the Declaration with the full voting rights appertaining thereto.

#### VII. Common Expenses and Common Surplus.

The term "Common Expenses" as used herein shall mean all the expenses for which all the owner of units in the Condominium (except the Association) shall be liable to the Association.

The term "Common Surplus" as used herein shall mean the excess of all receipts of the Association including without limitation assessments, rents, profits and revenues on account of the Common Elements over the amount of the Common Expenses. All of the owners of units shall share the portions of percentages set forth in the schedule annexed hereto and made a part hereof as Exhibit "3".

#### VIII. Voting Rights of Unit Owners.

The owner or owners of each unit shall become a member or members of the Association automatically upon and simultaneously with delivery of a deed of conveyance of fee simple title thereto from Developer, in conveyance by a grantee or a remote grantee of Developer, a deed that complies with the terms and conditions of the Declaration of Condominium, the Articles of Incorporation and the Bylaws of the Association. There shall be appurtenant and pass with title to each unit owner one (1) vote as member of the Association, which may be exercised by the owner or owners or the duly constitute proxy of the owner or owners, from time to time, of each unit at all meetings of members and in connection with all matters upon which members of the Association are entitled to vote. The qualifications for member and manner of admission to membership in the Association, the determination of such membership and voting by member shall be as provided for in the Articles of Incorporation and Bylaws of the Association.

#### IX. Name of the Association.

The entity responsible for the operation of the condominium shall be Royal Poinciana Industrial Park Condominium No. 1 Association, Inc., not for profit ("The Association"), a copy of the certificate of incorporation is annexed hereto and made a part hereof as Exhibit "4".

#### X. Bylaws of the Association.

A copy of the Bylaws of the Association is annexed hereto and made a part hereof as Exhibit "5".

#### XI. Amendment of Declaration.

Except for amendments which Developer is authorized and/or obligated elsewhere herein to make and except as may be elsewhere herein or in the Condominium Act otherwise specifically provided, this Declaration may be amended only in the following manner:

A. Notice: Notice of the subject matter of any proposed amendment to this Declaration shall be included in the notice of any meeting at which such proposed amendment is to be considered.

B. Proposal: Amendments to this Declaration may be proposed by the Board of Administration of the Association by resolution adopted by a majority vote of the members present at any regular or special meeting of the Board at which a quorum is present, or in the alternative, by a written instrument signed by a majority of the Board, or by owners of a majority of the units, whether by vote of such owners as members of the Association at a special or regular meeting of the member or by written instrument signed by them.

C. Adoption: Any amendment to this Declaration so proposed by the Board or members of the Association shall be transmitted to the President of the Association or in the absence of the President, to a Vice-President or other acting chief executive officer, who shall thereupon call a special meeting of the members of the Association to consider and vote upon such proposed amendment; provided, however, that a proposed amendment may be considered and voted upon at any annual meeting of the member of the Association if the next such meeting is to be held within the time hereafter limited and if notice of the proposed amendment shall be included in the notice of such meeting. The special or annual meeting, as the case may be, of the members shall be held not sooner than thirty (30) days nor later than sixty (60) days from the date of receipt by the Association of the proposed amendment. Notice of the meeting shall be in the form and shall be delivered and the meeting shall be called and held as provided for in the Bylaws of the

Association and such waiver, when delivered to the Secretary of the Association for filing in its records, whether before, during or after such meeting shall be construed to be the equivalent of notice to such member. The proposed amendment may be adopted and shall become effective, by and upon the affirmative vote at such meeting of members owning units to which not less than seventy five percent (75%) of the common elements are appurtenant; provided that any amendment so proposed may be adopted, without a formal meeting of the members owning units of not less than seventy five percent (75%) of the common elements. Notwithstanding the foregoing provisions, for adoption of amendments to this Declaration or any other provisions for amendments in the Condominium Act, no amendment may:

1. Discriminate against any unit owner or against any unit or buildings comprising part of the condominium property, unless all record owners and all record holders of lien shall join in the execution and acknowledgement of the amendment; or

2. No amendment to this declaration shall make any change in the provisions of this Declaration regarding "Insurance" and "Reconstruction or Repair after Casualty" unless the record owners of all mortgages of units shall join the execution and acknowledgement of the amendment.

3. No new amendment shall adversely affect the interest of any and all record owners of all mortgage liens thereon unless the record owners of all mortgages of units shall join in a consent to the execution and/or acknowledgement of the amendments.

D. **Effective Date and Recording Evidence of Amendment:** As to the members of the Association and persons having actual knowledge of the adoption of any amendments to this Declaration, such amendment shall be effective as of the date of the adoption or otherwise as may be specified in the resolution or instrument creating the amendment. As to non-members of the Association without actual knowledge of an amendment to the Declaration, the same shall be effective at the time the affected person acquires actual knowledge thereof or at the time of filing the amendment or certificate of amendment in the Public Records of Miami Dade County, Florida, whichever occurs first. The President of the Association or in the absence of the President, a Vice-President or other acting chief executive officer of the Association shall cause to be filed in the Public Records of Miami Dade County, Florida, the original amendment to the Declaration, if it is in the form of an instrument executed and acknowledged by unit owners and the holders of liens thereof, or a certificate of amendment, if it is a certification by the proper officers of the Association that such amendment was adopted by the Association at a meeting of the members. A true and correct copy of each such amendment or certificate shall be delivered, after adoption thereof, to the record owners of all units and to the record owners of all liens on units by the President, Vice-President or other acting chief executive officer of the Association upon request to such officer, but delivery of such copies shall not be a condition precedent to the effectiveness of any such amendment.

E. Except as otherwise provided in this Declaration, the Articles of Incorporation or the By-Laws, the Developer, during the time it is in control of the Board of Administration, may amend this Declaration, the Articles of Incorporation or the By-Laws alone and without the vote or consent of the Unit Owners to correct an omission or error or to affect any other amendment, which the Declaration has given him a right to do so.

## XII. Maintenance, Repairs and Replacements.

Responsibility for maintenance, repairs and replacements of condominium property and property of unit owners located or situated within the condominium shall be as follows:

A. **Units:** Each unit, and the fixtures, equipment, such as air conditioning equipment, plumbing, heating and electrical wiring and appliances comprising a part thereof, located therein or inside the unit shall be maintained, kept in good repair and replaced by and at the expense of the owner thereof. Exterior doors, gates, fences and windows shall be maintained and replaced at the expense of the unit owner whose unit is serviced by such items. All maintenance, repairs and/or replacement for which unit owners are responsible and obligated to perform, which, if not

performed or omitted would affect other units or common elements, shall be performed promptly as the need arises. Notwithstanding the obligation of the unit owner for maintenance, repair and replacement, the proceeds of all insurance awards or payments under insurance carried by the Association for loss of or damage to or within units shall be applied against repairs and replacement to the extent that such award or payments exceed the deductible provisions of such insurance.

B. **Common Elements:** The Association shall be responsible for, and shall assess against and collect from the owners of all units in the Condominium, as common expense, the cost of maintaining, repairing and replacing and keeping in clean and orderly condition, all of the common elements. The Association shall, at the expense of the owners of all units in the Condominium, repair all incidental damage to units resulting from maintenance, repair and/or replacement of or to common elements.

### XIII. Insurance.

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

A. **Duty and Authority to Obtain:** The Association shall obtain and keep in force at all times the insurance coverage which it is required hereby to carry and may obtain and keep in force any or all such other or additional insurance coverage as it is authorized hereby to carry. All insurance obtained by the Association shall be purchased for the benefit of the Association and the unit owners and their mortgagees, provided that a certificate evidencing a mortgagee endorsement shall be issued to the mortgage of each unit.

B. **Required Coverage:** The Association shall purchase and carry insurance coverage as follows:

1. **Casualty Insurance:** Casualty insurance covering all of the buildings and other improvements of the condominium including without limitation units and common elements in an amount equal to the maximum insurance replacement value thereof, exclusive of excavation and foundation costs, as determined annually by the Board of Administration of the Association; such insurance to afford protection against:

a. Loss of damage by fire or other hazards covered by the standard extended coverage or other perils endorsement; and

b. Such other risks of a similar or dissimilar nature as are or shall be customarily covered with respect to buildings and other improvements similar in construction, location and use to the buildings and other improvements of the condominium including without limitation, vandalism, malicious mischief, windstorm, water damage and war risk insurance, if available; and

c. Public liability insurance, in such amounts with such coverage and in such forms as shall be required by the Board of Administration of the Association to protect the Association and the owners or all units, including without limitation, hired automobiles, non-owned automobiles, comprehensive automobile, off-premises employee coverage, host liquor liability, employer liability, contractual and all written contract liability, water damage and legal liability, with cross-liability endorsements to cover liability of all unit owners as a group to each unit owner, bodily injury, including death of persons and or property damage arising out of a single occurrence, such coverage shall be for at least \$1,000,000.00; and

d. Workmen's compensation and employer's liability insurance to meet the requirements of the law; and

e. Flood insurance, if the same shall be necessary under the laws of the

United States for federally related mortgage lenders to make mortgage loans on units.

f. Errors and omissions in favor of all officers and members of the Board of Administration.

g. *Fidelity Bonds* - The association shall obtain and maintain adequate fidelity bonds for all persons who control or disburse funds of the association. As used in this section, the term "persons who control or disburse funds of the association" means those individuals authorized to sign checks, the president, secretary and treasurer of the association. If an association's annual gross receipts do not exceed \$100,000.00, the bond shall be in the principle sum of not less than \$10,000.00 for each such person. If an association's annual gross receipts exceed \$100,000.00, but not to exceed \$300,000.00, the bond shall be in the principle sum of \$30,000.00, for each such person. If an association's annual gross receipt exceeds \$300,000.00, the bond shall be in the principle sum of \$50,000.00, for each such person. The association shall bear the cost of the bonding.

h. Notice - The insurance policy above described shall include at least 10 days' prior written cancellation and/or modification notice to the owners association and to each holder of a first mortgage on any unit in the condominium which is listed as a scheduled holder of a first mortgage in the insurance policy.

C. *Optional Coverage*: The Association may purchase and carry such other insurance coverage other than title insurance as the Board of Administration in its sole discretion may determine from time to time to be in the best interest of the Association and the unit owners or as institutional lenders may reasonably require while it holds a mortgage encumbering any unit.

D. *Premiums*: Premiums for all insurance obtained and purchased by the Association shall be paid by the Association. The cost of insurance premiums and other incidental expenses incurred by the Association in administering and carrying out the provision of this Article, shall be assessed against and collected from unit owners as common expenses.

E. *Assured*: All policies of insurance obtained and purchased by the Association shall be for the benefit of the Association, the owners of units and their mortgagees as their interest may appear, and shall be provided that all proceeds covering casualty, losses shall be paid to the Insurance Trustee as herein identified, or their successors and the proceeds from insurance against any casualty loss shall be held for the use of the Association, the unit owners and their respective mortgagees, as their interest may appear to be applied or distributed in the manner herein provided. The Association is hereby constituted an appointed agent for all unit owners with authority to negotiate and settle the value and extent of any and all losses covered under any policy of casualty insurance, and the association is granted full right and authority to execute in favor of any insurer, a release of liability arising out of any occurrence coverage by any policy or policies of casualty insurance and resulting in loss of or damage to insured property.

F. *Insurer*: All persons beneficially interested in the insurance coverage obtained, purchased and maintained by the Association shall be bound by the Association's selection of its insurer and the amount of insurance coverage carried and kept in force by the Association.

G. *Insurance Trustee*: The Association shall have the right, prior to or upon the occurrence of any event causing or resulting in the need for the same to designate the Insurance Trustee and all persons beneficially interested in such insurance coverage shall be bound by the Association's selection of the Insurance Trustee.

1. *Qualifications, Rights and Duties*: The Insurance Trustee shall be a bank with trust powers doing business in the State of Florida. The Insurance Trustee shall not be liable for the payment of premiums, the renewal of any policy or policies of casualty insurance, the sufficiency of coverage, the form or content of policies nor the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive

such proceeds of casualty insurance as are paid and to hold the same in trust for the purposes herein stated and for the benefit of the Association, unit owners and their respective mortgagees to be disbursed as herein provided. The Association shall pay a reasonable fee to the Insurance Trustee for services rendered hereunder and shall pay such costs and expenses and the Insurance Trustee may incur in the performance of its duties hereunder. Such fees and costs to be assessed against and collected from unit owners as a common expense. The Insurance Trustee shall be liable only for its willful misconduct, bad faith or gross negligence and then only for such money as may come into possession of the Insurance Trustee. If and when the Insurance Trustee is required to distribute insurance proceeds to unit owners and their mortgagees, as their respective interest may appear, the Insurance Trustee may rely upon a certificate of the President and Secretary of the Association executed under oath and provided to the Insurance Trustee upon request to the Association. Such certificate to certify the name or names of the owners of each unit, the mortgagees thereof, and the respective percentages of any distribution which is to be made to such owners and mortgagees as their respective interest may appear. If and when insurance proceeds are paid to the Insurance Trustee for any casualty loss, the holders of any mortgage or mortgages encumbering a unit shall not have the right to determine or participate in the determination of repair or replacement of any loss or damage and shall not have the right to elect to apply insurance proceeds to the reduction of indebtedness secured by such mortgages unless the insurance proceeds represent a distribution to the owners of the unit and the mortgagees thereof, after such insurance proceeds have been first applied to the repair, replacements or reconstruction of any loss or damage or unless such casualty insurance proceeds are authorized to be distributed to the owners of the unit and mortgagees thereof by reason of loss of or damage to personal property constituting a part of the common elements and as to which a determination is made not to repair, replace or restore such personal property.

H. **Application of Insurance Proceeds:** The proceeds of casualty insurance paid to the Insurance Trustee by an insurer for loss or damage to real and/or personal property upon which the Association carries insurance, shall be applied and paid as follows:

1. **Common Elements Only:** The proceeds paid to the Insurance Trustee for loss or damage to real property constituting Common Elements only shall be applied to the repair, replacement or reconstruction of said loss or damage. If such insurance proceeds exceed the cost of repair, replacement or reconstruction of such common elements, the excess shall be paid by the Insurance Trustee to the owners of all units and their respective mortgagees as their interest may appear in appurtenance to each unit in the common elements. If the insurance proceeds shall be insufficient to pay the cost of the repair, replacement or reconstruction of such common elements, the Association shall deposit with the Insurance Trustee, from any Association Reserve Fund which may have been established, the difference between the total cost of repairing, replacing or reconstructing such loss or damage and the amount of the insurance proceeds. If no such Association Reserve Fund has been established or is insufficient to pay to the Insurance Trustee such difference, the Association shall assess the amount of the difference against and collect said sum from the unit owners as a common expense.

2. **Units:** The proceeds paid to the Insurance Trustee for a loss or damage to a building, constituting common elements and one or more units thereof, shall be first applied to the repair, replacement or reconstruction of common elements, then to the repair, replacement or reconstruction of any unit or units in such building which have been destroyed or damaged. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such common elements and units, the excess shall be paid by the Insurance Trustee to the owners of the damaged or destroyed units and their respective mortgagees as their interest may appear in shares or proportions equal to the undivided interest appurtenant to each such unit in the common elements. If the insurance proceeds shall be sufficient to pay for the repair, replacement or reconstruction of the damaged or destroyed common elements but shall be insufficient to pay the cost of the repair, replacement or reconstruction of the damaged or destroyed unit or units in such building, the Association shall collect from the unit owners according to each unit owner's



proportionate share and deposit such sum with the Insurance Trustee to be applied by the Insurance Trustee toward the total cost of repairing, replacing or reconstructing all of such damaged or destroyed common elements and units. If the insurance proceeds shall be insufficient to pay the cost of the repairs, replacement or reconstruction of the common elements to which the Insurance Trustee is required first to apply such proceeds before applying any part thereof to the repair, replacement or reconstruction of unit(s) the difference between the total cost of repairing, replacing or reconstructing the common elements and the amount of the insurance proceeds shall be collected from the unit owners according to each unit owner's proportionate share by the Association against and in such event, the cost of repairing, replacing or reconstructing the unit or units destroyed or damaged shall be assessed by the Association against and collected from the owner(s) of such damaged or destroyed unit(s).

I. **Deposits to Insurance Trustee After Damage:** Within sixty (60) days after a loss or damage to Condominium Property covered by casualty insurance, the Association shall obtain estimates of the cost of repairing, replacing or reconstructing the same including the cost of professional fees and any construction bond which the Board of Administration may require. If, from such estimates, it shall appear that the insurance proceeds payable for such loss or damage will be insufficient to pay the cost of such repair, replacement or reconstruction, the additional money required to pay the total cost thereof, whether it is to be paid by one or more unit owners, shall be deposited with the Insurance Trustee not later than thirty (30) days from the day on which the Insurance Trustee receives the insurance proceeds.

#### XIV. Reconstruction or Repair after casualty.

Whether, and the manner in which, any or all of the Condominium Property damaged or destroyed by casualty shall be repaired, reconstructed or replaced, shall be determined as follows:

A. **Buildings:** If one or more buildings shall be damaged or destroyed, repair or reconstruction thereof or termination of the condominium shall be in accordance with the followings:

1. **Total Destruction of all Buildings:** If all of the buildings of the Condominium are totally destroyed or are so damaged that no unit therein is habitable, none of the buildings and none of the improvements comprising common elements shall be reconstructed and the condominium shall be terminated unless the owners of units to which seventy five percent (75%) of the common elements are appurtenant agree in writing within sixty (60) days after the date of such destruction to reconstruct the same and unless the then applicable zoning and other regulatory laws and ordinances shall allow the same to be reconstructed or unless a policy or policies of casualty insurance covering the same shall require reconstruction thereof as a condition precedent to the payment of proceeds thereunder.

2. **Damage to and Destruction of some Buildings:** If some, but not all, of the buildings are damaged and/or destroyed and one or more of the units in one or more of the buildings remain habitable, the damaged or destroyed common elements and/or units shall be repaired or reconstructed so that each building and/or units shall be restored to substantially the same condition as existed prior to such damage or destruction unless within sixty (60) days after the casualty it is determined by agreement in the manner elsewhere herein provided that the condominium shall be terminated.

B. **Common Elements:** Damaged or destroyed improvements constituting part of the common elements shall be repaired, reconstructed and/or replaced unless in the event of total destruction of the units or by agreement after partial destruction, the condominium shall be terminated.

C. **Certificate:** The Insurance Trustee may rely upon a certificate executed by the President and Secretary of the Association to determine whether or not damaged or destroyed Condominium Property shall be repaired or reconstructed.

D. **Plans and Specifications:** Repairs or reconstruction of Condominium Property shall be substantially completed in accordance with the plans and specifications pursuant to which the same was originally constructed; provided, however, that the Board of Administration of the Association may authorize reasonable variations from the original plans and specifications as may appear to them to be necessary or desirable.

E. **Responsibility:** If the damage or destruction shall be limited only to one or more units for which the responsibility of maintenance and repair is that of the affected unit owners, then such unit owners shall be responsible for carrying out the repairs or reconstruction thereof. In all other instances of damages or reconstruction, the Association shall be responsible for carrying out the repair and reconstruction thereof.

F. **Construction Funds:** All funds for the payment of repair and reconstruction costs, consisting of insurance proceeds and/or funds collected by the Association from unit owners, shall be disbursed toward payment of such costs in the following manner:

1. **Association:** If the total funds assessed against and collected from unit owners by the Association for payment of repair and reconstruction is more than Fifteen Thousand Dollars (\$15,000.00) then all such sum shall be deposited by the Association and disbursed by the Insurance Trustee. In all other cases the Association shall hold such sums so assessed and collected and shall disburse the same in payment of the cost or reconstruction and repair.

2. **Insurance Trustee:** The proceeds of insurance collected on account of a casualty and the sum assessed against and collected from unit owners by the Association and deposited with the Insurance Trustee shall constitute a construction fund which shall be disbursed in payment of the cost of repair and reconstruction in the following manner:

a. **Unit Owner:** The portion of insurance proceeds representing damage for which the responsibility of repair and reconstruction is upon one or more but less, than all unit owners shall be paid by the Insurance Trustee to the affected unit owners and if any of such units are mortgaged, to the affected and their mortgagees jointly,

b. **Association-Lesser Damage:** If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than Fifteen Thousand Dollars (\$15,000.00), then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however that upon request to the Insurance Trustee by a mortgagee 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 hereinafter provided for the reconstruction and repair of a major damage.

c. **Association-Major Damage:** If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than Fifteen Thousand Dollars (\$15,000.00) then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Administration of the Association and upon approval of an architect registered to practice in Florida and employed by the Association to supervise the work.

d. **Surplus:** It shall be presumed that the first monies disbursed in payment of the costs of reconstruction and repair shall be from the insurance proceeds. If there is a balance in the construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners which is not in excess of assessments paid by such owner into the construction fund shall not be made payable to any mortgagee.

e. **Certificate:** Notwithstanding the provisions herein, the Insurance

Trustee shall not be required to determine whether or not sums paid by Unit Owners upon assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether disbursement from the construction funds are to be upon the order of the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund nor, to determine the payee nor the amount to be paid, nor to determine whether surplus funds to be distributed are less than the assessment paid by owners. Instead the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to any or all of such matters and stating the sums to be paid are due and property payable and stating the names of the payees and the amount to be paid; provided that when a mortgagee is herein required to be named as payee, the Insurance Trustee shall also name the mortgagee as payee; and further provided that when the Association or a mortgagee which is the beneficiary of an insurance policy, the proceeds of which are included in the construction fund, so requires, the approval of an architect named by the Association shall be first obtained by the Association.

XV. Use Restrictions.

Use of the Condominium Property shall be in accordance with the following provisions so long as the Condominium exists and these restrictions shall be for the benefit of and enforceable by all owners of units in this Condominium.

The use of the Condominium Property shall be in accordance with the following provisions:

A. The use of each and every Unit shall be subject to all use restrictions and limitations running with the land, and shall not be in conflict with, nor in violation of, any present or future zoning ordinance or ordinances of Miami Dade County, Florida; provided that any use which becomes a nonconforming but permissible use by virtue of a future ordinance shall be permissible.

B. The Common Elements and Limited Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the use and enjoyment of the Unit Owners, their employees, their business invitees and guests.

C. No nuisance shall be allowed upon the Condominium Property, nor any use, practice, noxious odor or loud noise that is the source of annoyance to other Unit Owners or which unreasonably interferes with the peaceful possession and operation of business and proper use of the Property by other Unit Owners. All parts of the Condominium Property shall be kept in a clean and sanitary condition and no rubbish, refuse, trash, or garbage allowed to accumulate nor any fire hazard allowed to exist.

D. No immoral, improper, offensive or unlawful use shall be made on the Condominium Property nor any part thereof, and all laws, ordinances and regulations of all governmental bodies having jurisdiction shall be observed.

E. Reasonable rules and regulations concerning the use of the Condominium Property may be made and amended from time to time by the Association in the manner provided by its Articles of Incorporation and By-Laws. Copies of such regulations and amendments shall be furnished by the Association to all Unit Owners upon request.

F. ~~No "For Sale" or "For Rent" signs~~ or other displays or advertising shall be maintained on any part of the Common Elements or Limited Common Elements or Unit without the Association's prior written consent. This provision does not apply to the Developer.

G. Without the Association's prior written consent, a Unit Owner shall not cause anything to be affixed or attached to, hung, displayed, or placed on the exterior or interior walls and doors (except those inside Units) or roof, or windows of his Unit; nor shall a Unit Owner grow any type of plant, shrubbery, flower, vine or grass outside his Unit; nor shall a Unit Owner

place any furniture, fixtures or equipment outside his Unit.

H. The installation and use of any equipment in a Unit shall conform to the generally accepted or recommended technical specifications for the equipment involved and shall not interfere with the use and enjoyment or create any danger to any Unit. Prior to the installation thereof, the Owner shall submit to the Board all technical data regarding installation and use for approval. The Board may at any time require the installation of insulation or detector machines or designate the hours of use of the equipment involved.

I. All mechanical, electrical and plumbing equipment of any kind or nature installed or used in each Unit shall comply fully with all rules, regulations, requirements or recommendations of the public authorities having jurisdiction and the Unit Owner alone shall be liable for any damage or injury caused by any such equipment in such Unit.

J. No Unit Owner shall cause or permit any Hazardous Material (as hereinafter defined) to be brought upon, transported through, stored, kept, used, discharged or disposed in or about the Condominium Property by the Unit Owners, its agents, employees or contractors. Any such Hazardous Material brought upon, transported through, used, kept or stored in or about the Property which is necessary for a Unit Owners to operate its business will be brought upon, transported, used, kept and stored only in such quantities as are necessary for the usual and customary operations of the Unit Owner's business and in a manner that complies with (1) all laws, rules, regulations, ordinances, codes or any other governmental restrictions or requirements of all federal, state and local governmental authorities having jurisdiction thereof regulating such Hazardous Materials; (2) permits issued for any such Hazardous Material (which permits Unit Owner shall obtain prior to bringing any Hazardous Material in), on or about the Property; and (3) all producers' and manufacturers' instructions and recommendations, to the extent they are stricter than laws, rules, regulations, ordinances, codes or permits. If the Unit Owner, its agents, employees, or contractors, in any way breaches the obligations stated in the preceding sentence, or if the presence of Hazardous Material on the Property caused or permitted by the Unit Owner results in release or threatened release of such Hazardous Material on, from or under the Property, or if the presence of, from or under the Property of Hazardous Material otherwise arises out of the operation of the Unit Owner's business, then without limitation of any other rights or remedies available to the Association hereunder or at law or in equity, Unit Owner shall indemnify, defend, protect and hold harmless the Association, Developer and other Unit Owners from any and all claims, sums paid in settlement of claims, judgements, damages, clean-up costs, penalties, fines, costs, liabilities, losses or expenses (including without limitation attorneys', consultants', and experts' fees and any fees incurred by the Association to enforce the Indemnity) which arise as a result of the Unit Owner's breach of such obligations or such release or such contamination of the Property, including, without limitations, diminution in value of the Property, damages for the loss of, or the restriction on the use of, rentable or usable space or any amenity of the diminution in value of the Property or other properties, whether owned by the Association, Developer or by third parties. This Indemnity of the Association, Developer and other Unit Owners by the Unit Owner includes without limitation, costs and/or penalties incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in soil or groundwater on, under or originating from the Property. Without limiting the foregoing, if the presence of Hazardous Material on the property caused or permitted by the Unit Owner in any contamination, release or threatened release of Hazardous Material on, from or under the Property or other properties, Unit Owner shall promptly take all actions at its sole cost and expense as are necessary to return the Property and other properties to the condition existing prior to the introduction of such Hazardous Material; provided that the Association's written approval of such actions shall first be obtained (which approval shall not be unreasonably withheld) and so long as such actions do not have or would not potentially have any material adverse long-term or short-term effect on the Association or the Property or other properties. As used herein, the term "Hazardous Material" mean any hazardous, radioactive or toxic substance, material or waste, including, but not limited to, those substances, materials and wastes (whether or not mixed, commingled or otherwise combined with the other substances, materials or wastes) listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302)

and amendments thereto, or such substances, materials and wastes which are or become regulated under any applicable local, state or federal law including, without limitation, any material, waste or substance which is: (1) a petroleum product, crude oil, or any fraction thereof, (2) asbestos, (3) polychlorinated biphenyls, (4) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251, et seq. (33 U.S.C. Section 1321) or listed pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1317), (5) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. Section 6903), or (6) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, et seq. (42 U.S.C. Section 9601)

K. Professional Offices. The Unit shall be occupied and used solely as business who are entitled to occupy space under RU-3 Zoning Classification. Furthermore, no space shall be used for the following type of business: (1) Auto Body Shop, (2) Auto Mechanics, (3) Heavy Duty Equipment Repair, (4) Tire Business, (5) Meat Business, (6) Poultry Business, (7) Fish Business, and (8) Restaurants. Any conveyance of Units or use of Units for use other than the above permitted use shall be deemed invalid, void and unenforceable, and Developer, the Association or any Owner shall have the right to seek and obtain any remedy available at law or in equity to prevent, prohibit and enjoin the use of any Unit in a manner not permitted under this Article; provided, however, any failure or election for whatever reason not to seek such enforcement of any such foregoing use restriction shall not be deemed in any way to be a waiver of such restriction or acceptance of the non-permitted use. The foregoing use restriction is hereby declared, reserved and imposed by Developer as an equitable servitude and restrictive covenant running with the Land and each Unit binding upon Developer and all persons claiming by, through or under Developer, for the benefit of and as a limitation and burden upon the Land, each Unit, Developer and all future Owners.

L. The right and obligation to maintain the Common Elements and the Limited Common Elements is delegated to the Association which has assumed the responsibility of such maintenance. The Association may enter into a contract with any firm, person or corporation for the maintenance and repair and management of the Condominium Property and may delegate to the manager or management company all the powers and duties of the Association, except such as are specifically required by this Declaration or the By-Laws to have the approval of the Board of Administration or the membership of the Association. The manager may be authorized to determine the budget, make Assessments, including Special Assessments for Common Expenses and Limited Common Expenses and collect Assessments, as provided by this Declaration and the By-Laws.

M. Nuisances: No nuisances shall be allowed upon the Condominium Property, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium Property by residents. All parts of the Condominium Property shall be kept in clean and sanitary condition and no rubbish, refuse or garbage shall be allowed to accumulate nor shall any fire hazard be allowed to exist. No use shall be made of any unit or of the common elements or limited common elements which would increase the rate of insurance upon the Condominium Property.

N. Lawful Use: No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or any part thereof; all valid laws, zoning ordinances and restrictions and limitations of records shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement, modification or repair of the Condominium Property shall be the same as is elsewhere herein specified.

O. Pets: Pets shall never be allowed to run freely upon any of the Condominium Property except within a unit, or any Limited Common Elements adjacent and appurtenant to it, and when outside of a unit shall be leashed and in the company of an individual willing and able to fully control it. All pets shall be walked only in that part of the common elements designated by the Association for that purpose. Any owner maintaining a pet upon the Condominium Property, or whose guests, lessees or invites bring any animal upon the Condominium Property shall be fully responsible for and shall bear the expense of any damage to persons or property

resulting therefrom. Any such damage shall be determined by the Board of Administration and collected by the Association. If the Board of Administration determines, in its sole judgment, that any particular pet is a nuisance, it shall have the power to compel the owner thereof to remove said pet from the Condominium Property.

P. Proviso: Provided, however, that until Developer has completed and sold all of the units, neither unit owners or the Association nor the use of the Condominium Property shall interfere with the completion of the proposed improvements and the sale of the units. Developer may make such use of the unsold units and common elements as may facilitate such completion and sale, including but not limited to, maintenance of a sales office, the showing of the Condominium Property and the display of signs.

Q. Not to make or cause to be made any structural additions or alterations to his Unit, except as proved in this Declaration; provided however, that no Unit Owner shall do anything with his Unit or the Common Elements or Limited Common Elements which would adversely affect the safety or soundness of or any portion of the Association Property or Condominium Property which is to be maintained by the Association. No Owner of a Unit shall permit there to be any structural modifications of alteration in such units without first obtaining the Board's written consent, which consent may be withheld, in the event that the Board determines in its sole discretion that such structural modification or alterations would adversely affect or in any manner be detrimental to the Condominium or the safety and soundness of the Common Elements in part or in its entirety. No modification or alteration shall be permitted which would cause any increase in any insurance premium paid by the Association. If modification or alteration desired by the Owner of any unit involves the removal of any permanent interior partition, the Association shall have the right to permit such removal so long as the permanent interior partition to be removed is not a load bearing partition, and so long as the removal thereof, would in no manner affect or interfere with the provisions of utility services serving the Condominium or other Office spaces located therein. All proposed structural modifications or alteration shall be pursuant to architectural plans and specifications prepared by an architect licensed to practice in the State of Florida, and which plans and specification shall be submitted to the Board of Administration at such time as the applicable Unit Owners requests the Board's consent as provided in this paragraph. The board of Administration shall have a period of thirty (30) days from the receipt of the plans and specifications within which to approve or disapprove same; provided, however, that if such plans and specifications are disapproved the reason therefore shall be submitted within said thirty (30) days period to the Unit Owner. If the Board fails to approve or disapprove the plans and specifications and/or fails to give its consent to and/or deny the requested modifications or alteration in writing within said thirty (30) day period, the plans and specifications and the units owner right to make the modification as described in said plans and specifications shall be deemed approved. If the aforesaid plans and specifications are approved then any and all work performed shall be performed, if required, pursuant to a building permit therefor issued by the applicable governmental authority and a copy of such permit shall be delivered to the Association prior to the commencement of any such work. The provision of this paragraph shall not be applicable to Developer and Board of Administration approval shall not be required as to structural alterations, additions or modifications made or proposed be made by Developer. Notwithstanding the foregoing, in the event that a perforation in the roof of the Condominium Building is required in connection with a Unit Owner's interior improvements, said Unit Owner may have such perforation(s) made, at said Units Owner's sole cost and expense, provided the plans and specifications therefor have been approved in writing by the Condominium project architect, and the work is performed by the contract roofer for the Condominium project. Alterations not of a structural nature within a unit may be made without the prior written consent of the Association. The installation or removal of non-load bearing partition shall constitute an alteration with a Unit and not an alteration or addition to a unit. Notwithstanding the foregoing, the provision of this paragraph shall not be applicable to Developer.

#### R. Divider Walls

1. The vertical wall separating one Owner's Unit from the adjacent Owner's Unit shall be referred to as a "Divider Wall". The location of the plane of the center line of the divider wall shall be coincident with the vertical plane which serves as the common

boundary between the units. The Developer shall construct the initial divider walls and the approval of the Association, or any other persons or entity shall not be required for the Developer to construct such divider walls. Thereafter a divider wall shall not be removed or constructed by an Owner, except as hereafter provided. In the event a Unit Owner acquires adjoining units or office spaces(s) and a divider wall is no longer intended to serve to separate the adjoining office Spaces, the Owner may remove the divider wall or construct a doorway or passage way through the divider wall or construct a doorway or passage way through the divider wall, but only after having obtained any and all required governmental approvals. The removal of the divider wall or the construction of such a doorway or passage way shall be at Unit's owner's sole cost and expense. In no event may a divider wall be removed or constructed if the structural soundness or integrity of the Building may in any way be effected thereby.

2. No divider wall may be constructed by a Unit Owner without the following:

(a) The Board of Administration's prior written approval, which approval shall not be unreasonably withheld; and

(b) Receipt of a building permit issued by the applicable government body, if required, for the construction. The divider wall shall be constructed so that the vertical plane of its center shall be, to the maximum extent possible, coincident with the vertical plane which serves as the common boundary between the adjoining office spaces. Any construction shall be at the expense of the Unit Owner performing same.

3. The part of the divider wall, whether constructed, by the Developer or adjoining Unit Owners located with the boundary of the Unit shall be part of the Unit. Owners of adjoining Units which share a divider wall shall have a cross easement of support in the portion of the divider wall not located within the boundary of their Unit(s). Maintenance and repair of the divider wall shall be accomplished by the appropriate Owners of the divider wall.

Each owner shall be responsible for any damage caused to a divider wall by its negligence or intentional acts or the negligent or intentional acts of such owner's employees, agents or invitees; and at the cost of said repair may be specifically assessed to the owner as a special charge, in the event such owner fails to repair or reconstruct the divider wall and the Association chooses to make such repair or reconstruction; provided however, the Association shall have no obligation to make such repair or reconstructions.

Notwithstanding anything set forth, herein, the Developer shall be entitled to install or remove divider walls without the approval of the Board of Administration or any other person or entity whatsoever.

S. Right to finish interiors. The plans of the development of the Condominium Property, contemplates that Developer may sell certain Units with the interior unfinished, and that each owner of such a Units will finish the interior of its Unit, including the extension of all utility services from common elements to the interior of its respective unit. Easements reserved unto the Developer under this Declaration contemplate that Developer, its employees, agents and/or assign, under contract with the respective Owner, shall construct such interior improvements or alternatively, Developer shall assign such easements rights to the extent necessary to permit owner to construct such interior improvements. In connection with the foregoing, Developer and the Board of Administration shall have the right to approve all plans and specifications for construction, completion and subcontractors engaging in such construction, completion and finishing of the interior of Units and to approve all contractors and subcontracts engaging in such construction and finishing. Without limiting the foregoing, all plans and specification must comply with all applicable laws, ordinances, and building codes and include such other additions or improvements necessary or appropriate for such particular purpose for which the Unit is to be occupied (such as but not limited to additional support or leaded walls for certain types of medical practices) and all contractors and subcontractors must be duly licensed.

**T. Alterations and/or additions.**

1. There will be no alterations and/or additions to the Common Elements or Limited Common Elements appurtenant to Units (excluding normal and necessary maintenance and repair) by anyone other than Developer except as authorized by other provisions of this Declaration or by the Board and approved by not less than seventy-five percent (75%) of the Unit Owners' total votes. The aforesaid alterations or additions may not prejudice the right of any Owner, unless his consent has been obtained. The cost of the foregoing will be specially assessed as a Common Expense or Limited Common Expense. Where any alteration or addition to the Common Elements or Limited Common Elements is exclusively or substantially for the benefit of an Owner requesting same (e.g. the relocation of pipes or electrical conduit incident to the combination of two or more Units), then the cost of such alteration or addition will be assessed against and collected solely for the Owner who exclusively or substantially benefitted, as a Special Charge or as a Special Assessment. The Special Charge or Special Assessment will be levied in such proportions as may be determined by the Board of Administration to be fair and equitable. Where such alterations or additions exclusively benefit Owners requesting same, said alterations or additions will only be made when authorized by the Board, and approved by not less than seventy five percent (75%) of the total votes of Owners exclusively or substantially benefiting therefrom.

U. A majority vote of the total voting interest is required if the alteration and/or addition materially alters or modifies the appurtenances to a Unit or changes the proportion percentage by which an owner of the parcel shares the Common Expenses and owns the Common Surplus.

Notwithstanding anything in this Declaration to the contrary, the Board of Administration shall have the right, but not the obligation, to permit the Owner of a Unit, at his expense, to install additional windows or doorways or other type apertures to such Owner's Unit or to seal up previously existing windows, doorways or other type apertures to such Owner's Unit, any of which apertures are located in or would be located in a Common Element wall which is a boundary to such Owner's Unit; provided, however, that such new aperture or sealing up of an existing aperture would in no way affect the structural integrity or soundness of the Building consistent with the architectural design and aesthetic appearance of the Building. The Board's approval, if granted, shall be in writing and shall be upon such terms and conditions as the Board shall determine in its sole and absolute discretion, and the approval of Unit Owners or any mortgagees, other than the Unit Owner requesting the alteration and the mortgagee of said Owners' Unit, if any, shall not be required, except as long as Developer owns a Unit in the Condominium, Developer's approval shall also be required. The cost and expense of such alteration, if approval is given pursuant to this subparagraph 2 to make such alterations, shall be borne exclusively by the Unit Owner requesting the alteration, and the cost and expense thereof, at the sole discretion of the Board, shall be paid for in advance by the applicable Unit Owner or shall be levied as a Special Charge against the Unit Owner's Office Space and the Unit(s) comprising same or said Unit Owner may pay for same by written agreement with the Association as solely determined by the Association. Notwithstanding the foregoing, the Board shall have the right to allow the Unit Owner requesting such alteration, or his contractors (which contractors are subject to approval by the Board and Developer so long as Developer owns any Unit), to make the alteration, upon such terms and conditions as set by the Board, in its sole and absolute discretion, or the Board may elect to perform such alterations; provided, however, that the Unit Owner shall pay for the alterations in advance or if the Unit Owner is permitted to perform the work by the Association, then an amount sufficient to cover that cost of the work as reasonably determined by the Association and the cost of the survey and attorneys' fees for preparation of the amendment hereinafter referred to shall be deposited with the Association to be used to pay for the aforesaid items. Notwithstanding anything in this subparagraph to the contrary, the terms and provisions of this subparagraph which require the approval by the Board of any other Unit Owner or any mortgagee or any deposit of funds with the Association shall be inapplicable to Developer, where Developer elects to make any alterations as described in this subparagraph, as hereinabove provided in the paragraph, need only be executed by Developer and the mortgagee of the applicable Unit affected, if any, and by no other person or entity whatsoever. Developer shall perform the work contemplated by this subparagraph and not the Association where such alteration affects a Developer owned Unit(s). Notwithstanding anything in this subparagraph to the contrary,



no alterations as contemplated by this subparagraph shall be made if such alteration would alter the fractional or percentage shares of Common Elements, Common Expenses, and Common Surplus appurtenant to any Unit.

V. Each Unit Owner, other than Developer to the extent permitted by law, agrees as follows:

1. To be responsible for and to maintain in good condition and repair his Unit appurtenant thereto, ordinary or extraordinary, including, without limitation, maintenance, repair and replacement of the interior side of the entrance door and all other doors within or affording access to a Unit, and the electrical, plumbing, heating and air-conditioning equipment, fixtures and outlets, if any, lying within the boundaries of the Unit or belonging to the unit Owner, at Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein, and to do so in accordance with the original plans and specifications therefor or as otherwise directed by the Association.

2. To share the cost of maintenance and repair of Limited Common Elements appurtenant to more than one Unit, by multiplying said cost by a fraction, the numerator of which shall be the Unit's percentage ownership of the Common Elements and the denominator of which shall be the total of the percentages of ownership of the Common Elements of all Units required by this Declaration to maintain and repair such Limited Common Elements the result being each Unit's share of such cost.

W. To allow the Board or the agents or employees of the Association to enter into any Unit for the purpose of maintenance, inspection, repair or replacement of the improvements within the Units, the Common Elements or the Limited Common Elements, or to determine in case of emergency circumstances threatening Units or the Common Elements or Limited Common Elements, or to determine compliance with the provisions of this Declaration and the By-Laws.

X. To show no signs, advertisements or notice of any type on the Common Elements, Limited Common Elements, or his Unit, except that standard company, professional or corporation slogans and logos may be permitted on each Unit's entry door, in addition to the name of the Unit Owner, and on such central signs and directories which may be erected, if any, by Developer as part of the Common Elements or Limited Common Elements.

Y. Notwithstanding anything to the contrary contained herein, any Unit Owner owning two or more adjoining Units may remove non-load bearing partitions between some or all of said Units without the prior written consent of the Association; provided, however, (a) all costs related thereto shall be borne by such Unit Owner, (b) any Mortgagees of Record holding mortgages encumbering said Units shall consent in writing to such removal, and such consent may not be unreasonably withheld, (c) such removal shall not necessitate relocation of utility lines, and (d) all applicable building and fire codes are complied with. In the event utility lines must be relocated, such partition removal shall be subject to the written consent of the Association and any other Unit Owners adversely affected by the relocation of said lines. As elsewhere provided herein, the removal of said partitions shall not affect the Unit's shares in the Common Elements and Common Surplus, their percentage interest in the Common Elements nor their voting rights.

Z. In the event the Unit Owner of a Unit fails in his maintenance obligations as set forth herein, or makes an alteration without the required written consent, or otherwise violates or threatens to violate the provisions hereof, the Association shall have the right to proceed in a court of equity for an injunction to seek compliance with the provisions hereof. In lieu thereof and in addition thereto, the Association shall have the right to levy an Assessment against the Unit Owner and the Unit for such necessary sums to remove any unauthorized addition or alteration and to restore the Unit, Common Elements, or Limited Common Elements to good condition and repair. Said Assessments shall have the same force and effect as all other Special Assessments and the Association shall have a lien on the Unit to enforce same and for the reasonable collection costs and attorneys' fees incident thereto. The Association shall have the further right to have its employees or agents or any subcontractors appointed by it enter a Unit at all reasonable times to do such work as is deemed necessary by the Association to enforce compliance with the provisions

thereof.

AA. The Association shall determine the exterior color scheme of the Building and all exterior and interior Common Elements or Limited Common Elements. No Unit Owner shall paint an exterior wall, door, window, or any common area, or install window treatments or replace anything thereon or affixed thereto without the Association's written consent.

BB. The location, size, color and letter size of all individual signs shall be as approved by Developer so long as it controls the Board of Administration and, thereafter, by the Association. Developer shall have the right, so long as it controls the Board of Administration, to sell and/or assign sign locations within the Condominium Property. No other signs, except as permitted herein, shall be allowed in any location or type without prior written approval of the Association. Such approval by Developer or the Association may not be revoked once it has been granted.

CC. Except to the extent (1) expressly provided to the contrary herein, or (2) proceeds of insurance are made available therefor, all maintenance, repairs and replacements of, in or to the Common Elements (other than the Limited Common Elements as provided herein) shall be performed by the Association as provided in this Declaration and the cost and expense thereof shall be charged 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 (and specially assessed against) such Unit Owners.

#### XVI. Compliance and Default.

Each unit owner shall be governed by and shall comply with the terms of the Declaration of Condominium, the Articles of Incorporation and Bylaws of the Association and any and all regulations adopted pursuant thereto, as they may be amended from time to time. Failure of the unit owner to comply therewith shall entitle the Association or other unit owner to the following relief in addition to the remedies provided by the Condominium Act:

A. Negligence: A unit owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family, or his or their guests, employees, agents, lessees or other invites.

B. 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, the Articles of Incorporation and the Bylaws of the Association, any and all regulations adopted pursuant thereto, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the court.

C. No Waiver of Rights: The failure of the Association or any unit owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration of Condominium, the Articles of Incorporation and Bylaws of the Association or the regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

#### XVII. Assessments: Liability, Lien and Enforcement.

To provide the funds necessary for proper operation and management of the Condominium, the Association has been granted the right to make, levy and collect assessments against the owners of all units and said units. The following provisions shall govern the making, levying and collection of such assessment and the payment of the costs and expenses of operating and managing the Condominium by the Association.

A. Determination of Assessments: Assessments by the Association, against each owner of a unit and his unit shall be a fractional share of the total assessment to be made against all owners of unit and their units as is set forth in the Schedule annexed thereto and made a part hereof as Exhibit "3". Should the Association become the owner of any units, the assessment which is due shall be paid by the Association.

B. **Time for Payment:** The assessment levied against the owner of each unit and his unit shall be made not less frequently than quarterly in an amount which is not less than that required to be provided funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred.

C. **Annual Budget:** The Board shall, in accordance with the Bylaws of the Association, establish an Annual Budget in advance for each fiscal year, which shall correspond to the calendar year, which shall estimate all expenses for the forthcoming year required for the proper operation, management and maintenance of the Condominium including when deemed necessary or advisable by the Board, a reasonable allowance for contingencies and reserves and shall estimate all income to be collected during the year. Upon adoption of each annual budget by the Board, copies thereof shall be delivered to each unit owner and the assessment for the year shall be based upon such Budget. Failure to receive a copy of the budget to a unit owner shall however not affect the liability of such owner for such assessment. Should the Board at any time and from time to time determine in the sole discretion of the Board, that the Assessment levied are or may prove to be insufficient to pay the cost of operation and management of the Condominium or in the event of emergency, the board shall have the authority to levy such additional assessment as it shall deem to be necessary.

The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in section 718.504(20), Florida Statutes. In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in section 718.113(1), Florida Statutes, the budget or a schedule attached thereto shall show amounts budgeted therefor.

In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other items for which the deferred maintenance expense or replacement cost exceeds \$10,000. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to budgets in which member of an association have, by a majority vote at a duly called meeting of the association determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection. However, prior to turnover of control of an association by a developer to unit owners other than a developer pursuant to section 718.301, Florida Statutes, the developer may vote to waive the reserves for the first two years of the operation of the association, after which time reserves may only be waived or reduced upon the vote of a majority of nondeveloper voting interests present at a duly called meeting of the association. If a meeting of the unit owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves as included in the budget shall go into effect.

D. **General Operating Reserve:** The Board, when establishing each annual budget, may when deemed necessary or desirable, include therein a sum to be collected and maintained as a general operating reserve to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies from time to time existing as a result of delinquent payments of assessment by owners of units, as a result of emergencies or for other reasons placing financial stress upon the Association.

E. **Use of Association Funds:** All monies collected by the Association shall be treated as the separate property of the Association and such monies may be applied by the Association to the payment of any expense of pertaining and managing the condominium or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and Bylaws and as monies for annual assessments are paid to the Association by any unit owner, the same may be commingled with monies paid to the Association by the other owners

of units, but separate ledgers must be maintained for each account. However, reserves and operating funds of the association shall not be commingled. Although all funds and other assets of the Association and any increments thereto or profits derived therefrom, or from the leasing or use of common elements including without limitation Common Surplus, shall be held for the benefit of members of the Association. No member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his unit.

F. **Personal Liability of Unit Owner:** The owner of each unit shall be personally liable, jointly and severally, as the case may be, to the Association for the payment of all assessment or installments, late charges thereof as above provided and for all costs of collecting the assessments and interest thereon, including attorney's fees, whether suit be brought or not, levied or otherwise coming due while such person or entity owns a unit.

G. **Liability not Subject to Waiver:** No owner of a unit may except himself from liability for any assessment levied against such owner and his unit by waiver of the use or enjoyment of any of the common elements or by abandonment of the unit or in any other manner.

H. **Lien for Assessment:** The Association is hereby granted a lien upon each unit and its appurtenant undivided interest in common elements and upon any exclusive right to use any parking space or limited common elements appurtenant to any such unit, which lien shall and does secure the monies due for all: (1) assessment levied against the unit and owner thereof; (2) interest, if any, which may become due on delinquent assessment owing to Association; (3) costs and expenses, including reasonable attorney's fees which may be incurred by the Association in enforcing its lien upon the unit and its appurtenances.

Any payment received by a Assessments and installments on them which are not paid when due bear interest at the rate of 18 percent per year. The association may charge an administrative late fee in addition to such interest, in an amount not to exceed the greater of \$25 or 5 percent of each installment of the assessment for each delinquent installment that the payment is late.

The association may bring an action in it's name to foreclose a lien for assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgement for the unpaid assessments without waiving any claim of lien. The association is entitled to recover its reasonable attorney's fees incurred in either a lien foreclosure action or an action to recover a money judgement for unpaid assessments. The lien granted to the Association may be established and foreclosed in the Circuit Court in and for Miami Dade County, Florida, and in any suit for the foreclosure of said lien the Association shall be entitled to rental from the owner of the unit from the date on which the payment of any assessment or installment thereof became delinquent and shall be entitled to the appointment of a Receiver for said unit.

The lien of the Association shall be effective from and after recording in the Public Records of Miami Dade County, Florida, a claim of lien stating the description of the unit encumbered thereby, the name of the record owner, the name and address of the association, the amount and the date when due and shall continue in effect until one year of the date of the Lien. Such claims of lien shall include only assessment which are due and payable when the claim of lien is recorded plus interests, costs, and attorney's fees. Such claims of lien, shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The lien of the Association shall be subordinated to the lien of any mortgage or any other lien recorded prior to the time of recording the Association's claim of lien.

A unit owner, regardless of how his title has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all assessments which come due while he is the unit owner. Additionally, a unit owner is jointly and severally liable with the previous owner for all unpaid assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the owner may have to recover from the previous owner the amounts paid by the owner. A first mortgagee who acquires title to the unit by foreclosure or

by deed in lieu of foreclosure is liable for the unpaid assessments that became due prior to the mortgagee's receipt of the deed. In no event shall the mortgagee be liable for more than six (6) months of the unit's unpaid common expenses or assessments accrued before the acquisition of the title to the unit by the mortgagee or one percent (1%) of the original mortgage debt, whichever amount is less.

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

No foreclosure judgements may be entered until at least 30 days after the association gives written notice to the unit owner of its intention to foreclose a lien to collect the unpaid assessments. If this notice is not given at least 30 days before the foreclosure action is filed, and if the unpaid assessments, including those due after the claim of lien is recorded, are paid before the entry of a final judgement 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 his last known address; and, upon such mailing, the notice shall be deemed to have given, and the court shall 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. The notice requirements of this subsection do not apply if an action to foreclose a mortgage on the condominium unit is pending before any court; if the rights of any association would be affected by such foreclosure; and if actual, constructive, or substitute service of process has been made on the unit owner.

If the unit owner remains in possession of the unit after a foreclosure judgement has been entered, the court, in its discretion, may require the unit owner to pay a reasonable rental for the unit. If the unit is rented or leased during the pendency of the foreclosure action, the association is entitled to the appointment of a receiver to collect the rent. The expenses of the receiver shall be paid by the party that does not prevail in the foreclosure action.

The association has the power to purchase the condominium parcel at the foreclosure sale and to hold, lease, mortgage, or convey it.

Within fifteen (15) days after a request therefor by unit owner or unit mortgagee, the association shall provide a certificate stating all assessments and other moneys owed to the association by the unit owner with respect to the condominium parcel. Any person other than the owner who relies upon such certificate shall be protected thereby.

No unit owner may be excused from the payment of his share of common expenses of a condominium unless all unit owners are likewise proportionately excused from payment, except:

The specific purpose or purposes of any special assessment approved in accordance with the condominium documents shall be set forth in a written notice of such assessment sent or delivered to each unit owner. The funds collected pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in such notice. However, upon completion of such specific purpose or purposes, any excess funds will be considered common surplus, and may, at the discretion of the board, either be returned to the unit owners or applied as a credit toward future assessments.

I. **Effect of Voluntary Transfer:** When the owner of any unit proposes to lease, sell or mortgage the same in compliance with other provisions of this Declaration, the Association upon written request of the owner of such unit, shall furnish to the proposed lessee, purchaser or mortgagee a statement verifying the status of payment of any assessment which shall be due and payable to the Association by the owner of such unit. Such statement shall be executed by any officer of the Association and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction and the Association shall be bound by such statement.

In any voluntary conveyance of a unit, the grantee shall be jointly and severally liable with

the grantor for all unpaid assessment against the grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefore.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessments shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt collection of any sum then remaining owing to it.

#### XVIII. Registry of Owners and Mortgagees.

The Association shall at all times maintain a Register of the name of the owners and mortgagees of all units. Upon the transfer of title to any unit, the transferee shall notify the Association in writing of his interest in such unit together with recording information identifying the instrument by which such transferee acquire his interest in the unit. The owner of each unit encumbered by a mortgage shall notify the Association of the name and address of the mortgagee, the amount of such mortgage or mortgages and the recording information identifying the same. The holder of any mortgage encumbering a unit may notify the Association of any such mortgages and upon receipt of such notice the Association shall register in its records all pertinent information pertaining to the same.

#### XIX. Termination.

The Condominium may be terminated in the following manner in addition to the manner provided by the Condominium Act, except as stated in Article XXIII of the Declaration:

A. **Destruction:** In the event it is determined in the manner elsewhere herein provided that the improvements shall not be reconstructed because the total destruction or major damage, the condominium plan of ownership will be thereby terminated without agreement.

B. **Agreement:** The condominium may be terminated at any time by the approval in writing of all the owners of units in the condominium and by all record owners of mortgages upon units therein owned by institutional lenders and other mortgages approved by institutional lenders and other mortgages approved by the Association. If the proposed termination is submitted to a meeting of the members of the Association, the notice of which meeting gives notice to the proposed termination, and if the approval of the owners of units in the condominium to which not less than seventy-five percent (75%) of the common elements are appurtenant and of the record owners of all mortgages upon units in the condominium owned by institutional lenders and other mortgages approved by the Association are obtained not later than thirty (30) days from the date of such meeting, the approving owners shall have an option to buy all of the units of the other member of the Association for the period ending the sixtieth (60th) day from the date of such meeting. Such option shall be upon the following terms:

1. **Exercise of Option:** The option shall be exercised by delivery or mailing by certified mail to each of the record owners of the units to be purchased of any agreement to purchase signed by the record owners of units who will participate in the purchase. Such agreement shall indicate which units will be purchased by each particular owner and shall agree to purchase of the unit owners not approving the termination, but the agreement shall effect a separate contract between each seller and his purchaser.

2. **Price:** The sale price for each unit shall be the fair market value determined by agreement between the seller and purchaser within thirty (30) days from the delivery or mailing of such agreement and in the absence of agreement as to price, it shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of

their appraisals of the unit; and judgment of specific performance of the sale upon 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.

3. Payment: The purchase price shall be paid in cash.

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

C. Certificate: The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its President and Secretary, certifying as to the facts effecting the termination which certificate shall become effective upon being recorded in the Public Records of Miami Dade County, Florida.

D. Shares of Owners After Termination: After termination of the condominium the 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 shares of the unit owners. Such undivided shares of the unit owners shall be the same as the undivided shares in the common elements appurtenant to the unit owner's prior to the termination as set forth in Exhibit "4" hereto.

E. Amendment: This article shall not be amended without consent of four-fifths (4/5) of the voting interest.

#### XX. Rights of Developer to Sell or Lease Units and Amend this Declaration.

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

The Developer reserves the right to amend this Declaration in order to change the size and/or type of units and/or buildings before recording this Declaration in the Public Records of Miami Dade County, Florida.

#### XXI. Grant of Easements; Covenant running with the Land and Conveyance to Trustee.

The Developer hereby grants a non-exclusive easement to be used and enjoyed in common by the owners, lessees, tenants and occupants of units to be constructed in the Condominium for the following purposes:

A. The furnishings and maintenance of public utility services, over, across, upon, in and through the entire parcel known as Royal Poincianna Industrial Park Condominiums.

B. Vehicular and pedestrian access over, across, upon, in and through the drives, entries, gates, walks, grounds and other portions as they are intended and/or provided for pedestrians and vehicular traffic through the entire parcel known as Royal Poincianna Industrial Park Condominiums.

C. Support: An easement of support and of necessity is reserved for the benefit of each Unit and the Common Elements and each Unit shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.

D. Encroachments: An easement is created for the existence and maintenance of any encroachment (i) by any portion of the Common Elements upon any Unit, (ii) by any Unit (or Limited Common Elements appurtenant thereto) upon any other Unit or upon any portion of the Common Elements, or (iii) occurring as a result of (A) construction of the Improvements, (B) settling or shifting of the Improvements, (C) any alteration or repair to the Common Elements

made by or with the consent of the Association, or (D) any repair or restoration to the Improvements or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings. Such easements shall continue for so long as the Improvements shall stand.

E. Construction; Maintenance: Developer (including its designees, contractors, successors and assigns) shall have the right, in its sole discretion, from time to time, to enter the Condominium Property and take all necessary action to construct, rebuild and restore the units by virtue of fire and casualty.

F. Further Easements: The Association shall have the right and authority at any time by action of its Board to dedicate, convey or grant easements and execute and deliver bills of sale or warranty deeds or execute such other documents as may be necessary, or do any or all of the foregoing in connection with the water and sewage distribution and facilities located on or under the Condominium property. The foregoing shall be for the purpose of conveying, dedicating or granting easements to the appropriate municipal authorities for said water and sewage distribution system and facilities so that such authorities will maintain and operate the said water and sewage distribution system and facilities.

G. Easement Savings Clauses: An easement, whether heretofore or hereafter created under and pursuant to this Declaration of Condominium shall constitute a covenant running with the land of the Condominium, and, notwithstanding any other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonably interfere with the proper and intended use and purpose and shall survive the termination of the Condominium. The Unit Owners of this Condominium do hereby designate the Association acting through its Board as their lawful attorney-in-fact to execute any and all instruments on their behalf for the purposes of creating all such easements as are contemplated by the provisions hereof.

H. Developer hereby reserves unto and for the benefit of itself, the Association, Owners and contractors, an irrevocable and perpetual easement running with the Land and right to use over, in and through each and every Unit for access to any and all common elements near, adjacent to or contiguous to the Unit in order to complete construction, equipping, finishing and decorating the interior of any other Unit. Any person exercising this easement right will make reasonable efforts to exercise such right in and through a Unit which is owned by a party other than the person exercising the right in a manner so as not to disturb unreasonably the occupancy and use of the Unit by such party; provided, however, developer will have the sole and absolute discretion to determine the reasonableness of the use of such easement rights in order not to delay or hinder the completion of construction, equipping, finishing, furnishing or decorating of the interior of any interior of any unit, and subject to the discretion of Developer, the board may establish rules and/or regulations applicable to all Unit Owners or on an individual ad hoc basis limiting the times and the manner in which the easement rights hereunder may be exercised. Any person exercising the easement rights hereunder shall be liable for any damage caused by such person to a Unit that is not owned by such person.

## XXII. Condemnation.

A. Deposit of Awards with Insurance Trustee: For purposes of this Declaration, the taking of portions of the condominium property by the exercise of the power of eminent domain or purchase in lieu thereof ("Taking") shall be treated as a casualty. The awards for a Taking shall be deemed to be proceeds from insurance on account of the casualty and shall be deposited with the Insurance Trustee even if the awards may be payable to Unit Owners. If any Unit Owner fails to deposit the award with the Insurance Trustee, the Board of Directors, in its discretion, may impose Special Assessments according to each unit owner's proportionate share against a defaulting Unit Owner in the amount of the Owner's award, or the amount of that award may be set off against the sums hereafter made payable to that owner.

B. Determination Whether to Continue Condominium: The determination whether or not to continue the Condominium will be made in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty.



**C. Disbursement of Funds:** If the Condominium is terminated after a Taking, 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 as if the Condominium is terminated after a casualty. If the Condominium is not terminated after a Taking, 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 after a casualty by the Insurance Trustee unless elsewhere provided in this Article.

**D. 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 Board of Directors 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:

1. **Distribution of Surplus:** The balance of the award for the Unit, if any, shall be distributed to the Owner and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and such mortgagees.

2. **Adjustment of Shares in Common Elements:** If the floor area of the Unit is reduced by the Taking, the percentage representing the share in the Common Elements, the Common Expenses and Common Surplus attributable to the Unit shall be reduced by multiplying the percentage 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:

a. add the total of all percentages of all Units after reduction as aforesaid (the "Remaining Percentages Balance"); and

b. 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.

**E. Unit 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 Board of Directors of the Association), then 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:

1. **Payment of Award:** The award for the Taking shall be paid to the extent available: 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 for 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.

2. **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. If the cost of such work shall exceed the balance remaining 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.

3. **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 among the reduced number of Unit Owners (and among reduced Units) as follows:

a. add the total of all percentages of all Units of continuing Owners prior to this adjustment, but after any adjustments made necessary by Section D(3) (the "Percentage Balance"); and

b. divide the percentage of each Unit of a continuing Owner prior to this adjustment, but after any adjustments made necessary by Section D(3), by the Percentage Balance.

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

4. Assessments: If the balance of the award for the Taking (after payments to the Unit Owner and such Owner's mortgagees as above provided) is not sufficient to alter the remaining portion of the Unit for use as 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 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 by reason of the Taking.

5. 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 thirty (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 Unit 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 adjustment to such shares affected by reason of the Taking.

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. 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, if any shall be distributed to the unit Owners in proportion to the shares in which they own the Common Elements after adjustments to these shares 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.

7. Amendment of Declaration: The changes in Units, the Common Elements and in the ownership of the Common Elements and the adjustment to the shares in the Common Expenses and Common Surplus that are effected by the Taking shall be evidenced by an amendment to this Declaration approved by, and executed at the direction of, a majority of the Board.

#### XXIII. Warranties.

The developer does not warrant to the Association or the Unit Owners the construction of, or any part of, the condominium property, common elements or Units, save and except any express written warranties delivered by the Developer in writing to the Unit Owners and/or warranties provided for under Florida Statutes. To the maximum extent allowed by law, Developer

disclaims any and all implied warranties of merchantability and fitness as to the unit, building and such appurtenances upon the condominium property.

As to any implied warranty which cannot be disclaimed entirely, as a result of federal or state law, all secondary incidental and consequential damages are specifically excluded and disclaimed (claim of secondary, incidental and consequential damages being clearly unavailable in the case of implied warranties which are disclaimed entirely above.)

The foregoing disclaimer does not, however, extend to and is not a limitation upon any implied warranties otherwise conferred as to personalty or appliances supplied by Developer constituting consumer products that are within the purview of the status granting the same.

In the event a competent court of law decides any disclaimer hereunder to be ineffective the parties agree that any action brought under warranty must be brought within one (1) year from the date of issuance of a temporary certificate of occupancy as to the building themselves and the common elements (excluding the Unit) and as to the Unit, within a period of one (1) year from the date of Purchasers closing hereunder.

#### XXIV. Sales Activity and Developer's Rights.

Until the Developer has completed and sold all the Units of the Condominium and the Developer and/or any third party developer or developers have completed and marketed all other dwellings to be constructed, neither the Unit Owners nor the Association nor their use of the Condominium shall interfere with the completion of the contemplated improvements and the sale of Units. The Developer (or its duly authorized agents or assigns) may make such use of the unsold Units and the common elements as may facilitate such completion and sale, including, but not limited to, the maintenance of sales offices for the showing of the property and display of signs, billboards, placards, and visual promotional materials. The Developer may use unsold Units as model Units or as sales offices for display purposes to prospective condominium purchasers. The Developer shall have the right to use unassigned parking spaces upon the lands for the Condominium or the Complex itself for prospective purchasers and such other parties as Developer determines. The sales office personal property, model furnishings, signs and all items pertaining to sale shall not be considered common elements and shall remain the property of the Developer.

#### XXV. Miscellaneous.

A. **Severability:** The invalidity in whole or in part of any covenant or restriction or any Article, sub-article, sentence, clause, phrase or word, or other provisions of this declaration, the articles of incorporation and bylaws of the Association and the rules and regulations set forth by the Association shall not affect the validity of the remaining portions thereof.

B. **Applicability of Declaration of Condominium:** All present or future owners, tenants or any other persons who might use the facilities of the condominium in any manner, are subject to the provisions of this declaration and the mere acquisition or rental of any unit, nor the mere act of occupancy of any unit shall signify that the provisions of this Declaration of Condominium are accepted and ratified in all respects.

C. **Construction:** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership.

D. **Parties Bound:** The restrictions and burdens imposed by this Declaration are intended to and shall constitute covenants running with the land and shall constitute an equitable servitude upon each unit and its appurtenant undivided interest in common elements and this Declaration shall be binding upon developer, its successors and assigns and upon all parties who may subsequently become owners of units in the condominium and their respective heirs, legal representatives, successors and assigns.

E. **Right of access to units:** The Association has the irrevocable right of access to each

unit during reasonable hours, when necessary for the 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.

F. Developer hereby reserves unto and for the benefit of itself, its directors, officers, employees and agents, for as long as Developer owns a Unit, an irrevocable easement and right or use of, over and across the Common Elements and Limited Common Elements in order to develop the Condominium Property and carry on a sales and marketing program of Units, including the right to carry on and complete construction of improvements thereof, place signs store construction equipment park vehicles and show common elements and units to any prospective purchaser of a unit.

G. The Association agrees to indemnify and hold Developer harmless from and against any and all claims, suits, actions, causes of actions, and/or damages arising from any suits, actions, loss of life and/or damage to property sustained on or about the Condominium Property and from and against all cost, expenses, counsels fees, expenses and liabilities incurred by Developer of any action or proceeding brought thereof, and from and against any order, judgements, and/or decrees which may be entered thereon. The Association also agrees to indemnify developer for any expense and reasonable attorney's fees that Developer may incur in bringing any suit or action, if Developer prevails in such action for the purposes of enforcing Developer's rights under this Declaration for compelling the specific enforcement of the terms and conditions contain herein to be kept or performed by the Association or Unit Owners. The costs and expenses of fulfilling the covenants of indemnification set forth in this paragraph shall be a Common Expense. This paragraph shall not require the Association to indemnify and hold Developer harmless against claims, suits negligence or breaches of its contractual obligation or statutory or express written warranties to purchaser of units.

IN WITNESS WHEREOF, Developer has caused the foregoing Declaration of Condominium to be executed and its seal affixed by its undersigned duly authorized officers on the date set forth above.

In the presence of:

Signature of Witness

Name of Witness (Please Print)

Signature of Witness

Name of Witness (Please Print)

Garop Developers, Inc.

Alejandro Robles, President

Eduardo Garcia Allen, Secretary

STATE OF FLORIDA  
COUNTY OF MIAMI DADE

The foregoing instrument was acknowledged before me by Alejandro Robles as President and Eduardo Garcia Allen, as Secretary of Garop Developers, Inc., a Florida Corporation on this 26<sup>th</sup> day of March, 1998, who is (or are) personally known to me or who has produced Driver's License as identification and who did(did not) take an oath.

Signature of Notary

Name of Notary (Please Print)

My Commission Expires: 12/18/99



MAYRA R. PARRONDO  
My Comm Exp. 12/18/99  
Bonded By Service Ins  
No. CC51924S  
[1] Personally Known [1] Other [ ]

OFF. REC. 1806 | PG | 526

Exhibit "1"

SITE PLAN FOR  
ROYAL POINCIANA INDUSTRIAL PARK  
CONDOMINIUM No 1

## ROYAL POINCIANA INDUSTRIAL PARK CONDOMINIUM No 1

## LEGAL DESCRIPTION:

THAT PORTION OF TRACT 43, LESS THE EAST 1/2 THEREOF, OF SECTION 15, TOWNSHIP 53 SOUTH, RANGE 40 EAST, FLORIDA FRUIT LANDS CO.'S SUBDIVISION NO.1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 17 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, LESS THE NORTH 35.00 FEET THEREOF FOR RIGHT-OF-WAY, MORE PARTICULARLY DESCRIBED AS FOLLOW:

COMMENCE AT THE N.W. CORNER OF THE S.1/2 OF THE N.W. 1/4 OF THE S.W. 1/4 OF THE S.W. 1/4 OF SAID SECTION 15; THENCE N89°41'14" E ALONG THE NORTH LINE OF SAID TRACT 43 FOR A DISTANCE OF 306.65 FEET; THENCE S00°18'46"E FOR A DISTANCE OF 35.00 FEET; THENCE N89°41'14"E ALONG A LINE 35.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID TRACT 43 FOR A DISTANCE OF 237.00 FEET TO THE POINT OF BEGINNING; THENCE N89°41'14"E FOR A DISTANCE OF 125.87 FEET; THENCE S01°45'30"E FOR A DISTANCE OF 294.81 FEET; THENCE S89°41'39"W FOR A DISTANCE OF 231.81 FEET; THENCE N00°18'46"W FOR A DISTANCE OF 43.00 FEET; THENCE N89°41'39"E FOR A DISTANCE OF 98.50 FEET; THENCE N00°18'46"W FOR A DISTANCE OF 251.70 FEET TO THE POINT OF BEGINNING, CONTAINING 0.97 ACRES MORE OR LESS.

**ROBAYNA**  
AND ASSOCIATES INC.  
ENGINEERS, PLANNERS, SURVEYORS  
5801 N.W. 151st STREET, SUITE 126  
MIAMI LAKES, FL. 33014  
PH (305) 823-9316

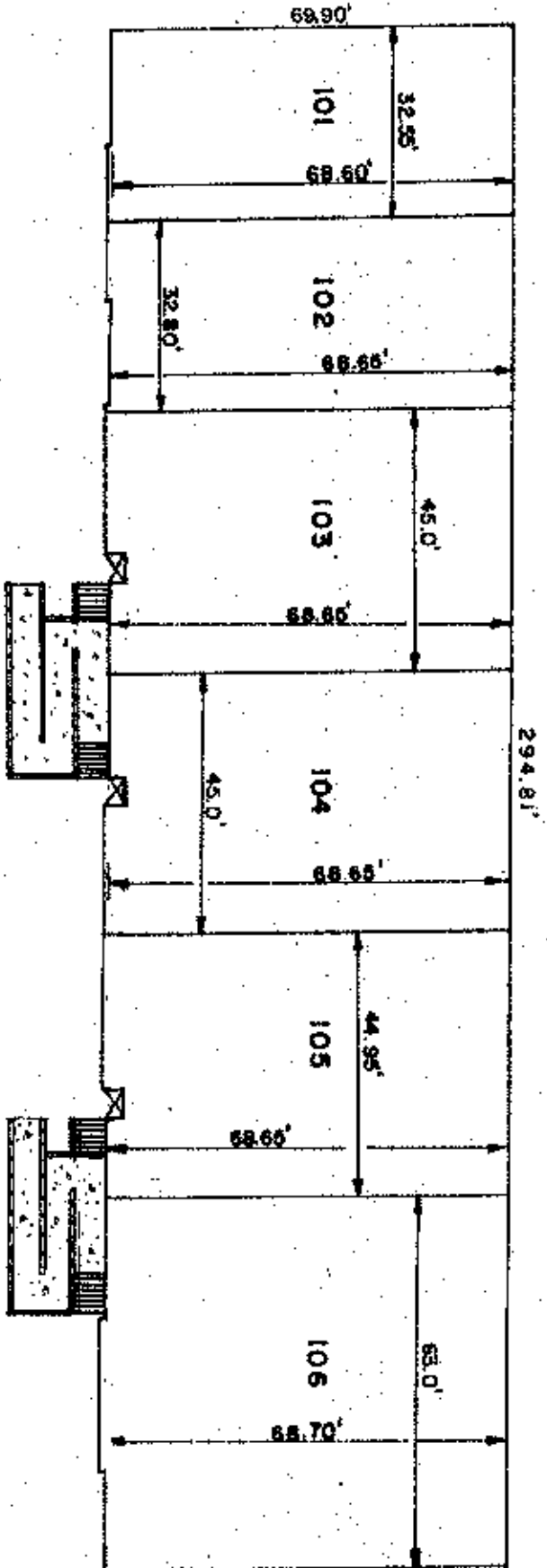
OFF. REC. 1806/PC/530

Exhibit "2B"

OFF. REC. 1806 | PG 1532

Exhibit "2C"





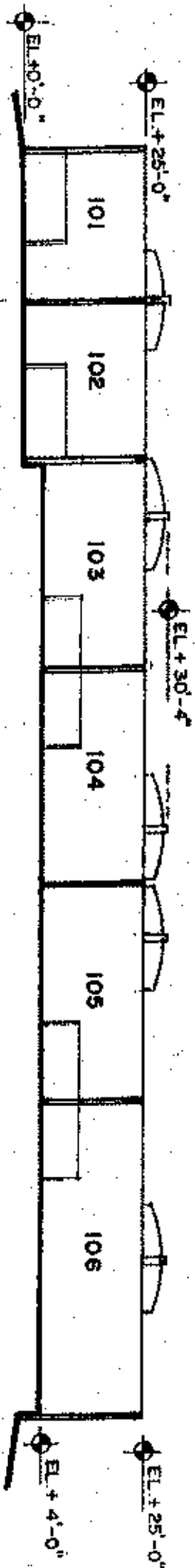
ROYAL PONCIANA INDUSTRIAL PARK  
 CONDOMINIUM No 1

**ROBAYNA**  
 AND ASSOCIATES, INC.  
 ENGINEERS - PLANNERS - ARCHITECTS  
 1001 N. W. 10th St., Suite 1010  
 Fort Lauderdale, FL 33304 TEL: (305) 552-0700

503-8-

REC: 1806 | PG | 528

Exhibit "2A"



**SECTION**  
SCALE: 1" = 30"

**ROYAL POINCIANA INDUSTRIAL PARK  
CONDOMINIUM No 1**

NOTES:  
1-Floor Elevation shown is based on  
Assumed Elev. of 0.00 at Lowest  
Floor Elevation.

**ROBRAYNA**  
AND ASSOCIATES, INC.  
ARCHITECTS • PLANNERS • ENGINEERS  
1000 WEST 19TH AVENUE, SUITE 100  
DENVER, CO. 80202 TEL. 733-8800

203-8-

OFF. REC. 1806 | PG. 534

Exhibit "3"

## EXHIBIT 3 TO DECLARATION OF CONDOMINIUM

OF

Royal Poinciana Industrial Park Condominium No. 1

PERCENTAGE OF OWNERSHIP IN COMMON ELEMENTS AND COMMON SURPLUS AND  
SHARING OF COMMON EXPENSES.

Each Owner of a unit of this Condominium owns the following common elements:

Unit 101	12.5%
Unit 102	12.5%
Unit 103	17%
Unit 104	17%
Unit 105	17%
Unit 106	24%

OFF.  
REC. 18061 PG 1536

Exhibit "4"

# State of Florida



## Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of ROYAL POINCIANA INDUSTRIAL PARK CONDOMINIUM NO. 1, ASSOCIATION INC., a Florida corporation, filed on April 7, 1998, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H98000006557. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below.

The document number of this corporation is N98000001994.

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Seventh day of April, 1998

Authentication Code: 398A00018311-040798-N98000001994-1/1



CR2EO22 (1-95)

*Sandra B. Matham*

Sandra B. Matham  
Secretary of State

Articles of Incorporation  
of  
Royal Poinciana Industrial Park Condominium No. 1, Association Inc.  
(a Florida corporation not for profit)

In order to form a corporation not for profit under the laws of the State of Florida, we, the undersigned, do hereby associate ourselves into a corporation for the purposes herein specified and to that end we do by these Articles of Incorporation set forth:

ARTICLE I

The name of the corporation shall be Royal Poinciana Industrial Park Condominium No. 1, Association Inc., hereinafter referred to as the "Association."

ARTICLE II

The purpose and objectives of the Association shall be to administer the operation and management of Royal Poinciana Industrial Park Condominium No. 1 (the "Condominium") in accordance with the Florida Condominium Act (the "Act") upon land situated in Miami Dade County, Florida described in Exhibit "A" attached hereto and made a part hereof, in accordance with the rights reserved by Developer as contained in the Declaration of Condominium of Royal Poinciana Industrial Park Condominium No. 1, recorded in the Public Records of Miami Dade County, Florida and to perform the acts and duties incident to the administration, operation and management of such condominium in accordance with the terms, provisions, conditions and authorizations of these Articles of Incorporation, the Bylaws of the Association to be adopted (the "Bylaws") and in the formal Declaration of Condominium (the "Declaration") which will be recorded in the Public Records of Miami Dade County, Florida, when the land and the improvements constructed thereof are submitted to the condominium form of ownership; and to own, operate, encumber, lease, sell, manage, convey, trade and otherwise deal with the land, the improvements and such other property, whether real and/or personal, as may be or become part of the Condominium (the "Condominium Property") to the extent necessary or convenient in the administration of the Condominium. The Association shall be conducted as a non-profit organization for the benefit of its members.

ARTICLE III

The powers of the Association shall include and be governed by the following provisions:

This document prepared by:  
Maria Fernandez Valle, Esq.  
999 Ponce de Leon Blvd. Suite 1110  
Coral Gables, Florida 33134  
Florida Bar: 371564



- A. All of the powers and privileges granted to corporations not for profit under the laws pursuant to which this corporation is chartered.
- B. All of the powers reasonable and necessary to implement and effectuate the purposes of the Association, including, without limitation, the power, authority and right to:
1. Make and establish reasonable rules and regulations governing use of the units, common elements and limited common elements in and of the Condominium as such terms are defined in the Declaration.
  2. Levy and collect assessments against members of the Association to defray the common expenses of the Condominium as provided in the Declaration and Bylaws; including the power to levy and collect assessments for the purpose of paying assessments levied against units in the condominium by governmental entities and for the purpose of acquiring, owning, holding, operating, leasing, encumbering, selling, conveying, exchanging, managing and otherwise dealing with the Condominium Property, including units, which may be necessary or convenient in the operation and management of the condominium and in accomplishing the purposes set forth in the Declaration. However, the Association may not charge a use fee against a unit owner for the use of common elements or association property unless otherwise provided for in the Declaration of Condominium or by a majority vote of the Association or unless the charges relate to expenses incurred by an owner having exclusive use of the common elements or association property.
  3. Maintain, repair, replace, operate and manage the Condominium Property including the right to reconstruct improvements after casualty and further to improve and add to the Condominium Property.
  4. Contract for the management of the Condominium and in connection therewith, to delegate any and/or all of the powers and duties of the Association to the extent and in the manner permitted by the Declaration, the Bylaws and the Act.
  5. Enforce the provisions of these Articles of Incorporation, the Declaration, the Bylaws and all rules and regulations governing use of the Condominium which may from time to time establish.
  6. Contract, sue or be sued with respect to the exercise or non-exercise of its powers. For these purposes, the powers of the Association include, but are

not limited to, the maintenance, management and operation of the Condominium Property. The Association may institute, maintain, settle or appeal actions or hearings in its name on behalf of all unit owners concerning matter of common interest, including but not limited to, the common elements; the roof and structural components of a building or other improvements; mechanical, electrical and plumbing elements serving an improvement or a building; representations of the developer pertaining to any existing or proposed commonly used facilities and protesting ad valorem taxes on commonly used facilities and on units; and may defend actions in eminent domain or bring inverse condemnation actions. Nothing herein limits any statutory or common-law right of any individual unit owner or class of unit owners to bring any action which may otherwise be available.

7. The Association has the irrevocable right of access to each unit during reasonable hours, when necessary for the maintenance, repair or replacement of any common elements or for making emergency repairs which are necessary to prevent damage to the common elements or to another unit or units.
8. Exercise, undertake and accomplish all of the right, duties and obligations which may be granted to or imposed upon the Association in the Declaration and the Act.
9. The Association has the power to acquire title to property or otherwise hold property for the use and benefit of its members. The power to acquire personal property shall be exercised by the Board of Administration. Except as otherwise permitted in subsection 10 and 11 below, and in Florida Statute 718.114, there shall be no acquisition of title to real property by the Association except in the manner provided in the declaration.
10. The Association has the power to purchase any land or recreation lease upon the approval of such voting interest as is required by the declaration. If the declaration makes no provision for acquisition of the land or recreation lease, approval of the majority of voting interest shall be required to amend the declaration to permit the acquisition.
11. The Association has the power, unless prohibited by the Declaration, Articles of Incorporation or Bylaws of the Association, to purchase units in the condominium and to acquire and hold, lease, mortgage, and convey them. There shall be no limitation on the Association's right to purchase a unit at a foreclosure sale resulting from the Association's foreclosure of

its lien for unpaid assessments, or to take title by deed in lieu of foreclosure.

12. The Association shall use its best efforts to obtain and maintain adequate insurance to protect the Association, the association property, the common elements, and the Condominium property. The association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the association. As used in this section, the term "persons who control or disburse bonds of the association" means those individuals authorized to sign checks and the president, secretary and treasurer of the association. If an association's annual gross receipts do not exceed \$100,000, the bond shall be in the principal sum of not less than \$10,000 for each such person. If an association's annual gross receipts exceed \$100,000, but not to exceed \$300,000, the bond shall be in the principal sum of \$30,000, for each such person. If an association's annual gross receipt exceeds \$300,000, the bond shall be in the principal sum of \$50,000, for each such person. The association shall bear the cost of the bonding and flood insurance for common elements, association property, and units. An association or group of associations may self-insure against claims against the Association, the association property required to be insured by an Association, upon compliance with Florida Statute 624.460-624.488. A copy of each policy of insurance in effect shall be made available for inspection by unit owners at reasonable times.
13. Every insurance policy issued to an individual unit owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property without rights of subrogation against the Association.
14. The association has a limited power to convey a portion of the common elements to a condemning authority for the purpose of providing utility easements, right-of-way expansion, or other public purposes, whether negotiated or as a result of eminent domain proceedings.

#### ARTICLE IV

The qualification of members, the manner of their admission to and termination of membership and voting by members shall be as follows:

- A. The record owners of all units in the Condominium shall be members of the Association and no other persons or entities shall be entitled to membership, except as provided in Paragraph E, Article IV, hereof.

- B. Membership shall be established by the acquisition of fee title to a unit in the Condominium or in added units or by acquisition of a fee ownership interest therein, by voluntary conveyance or operation of law and the membership of any person or entity shall be automatically terminated when such person or entity is divested of all title or his entire fee ownership in such unit; provided that nothing herein contained shall be construed as terminating the membership of any person or entity owning fee title to or a fee ownership interest in two or more units at any time while such person or entity shall retain fee title to or a fee ownership interest in any unit.
- C. The interest of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to the unit owned by such member. The funds and assets of the Association shall be expended, held or used only for the benefit of the membership and for the purposes authorized herein, in the Declaration and in the Bylaws.
- D. On all matters upon which the membership shall be entitled to vote, there shall be one vote, and only one vote, for each unit in the condominium, which vote may be exercised or cast by the owner of each unit as may be provided in the Bylaws of the Association. Should any person or entity own more than one unit, such member shall be entitled to exercise or cast one vote for each such unit in the manner provided by the Bylaws.
- E. Until such time as the land and the improvements constructed thereon are submitted to the condominium form of ownership by recordation of the Declaration in the Public Records of Miami Dade County, Florida, the membership of the Association shall be comprised of the subscribers to these Articles each of whom shall be entitled to cast one vote on all matters on which the membership shall be entitled to vote.

#### ARTICLE V

The term of the Association shall be perpetual or if the condominium is terminated, the term shall end as soon after termination of the condominium as its affairs can be concluded.

#### ARTICLE VI

The principal office of the Association shall be located in Florida, but the Association may maintain offices and transact business in such places within or without the State of Florida as may from time to time be designated by the Board of Administration.

The affairs of the Association shall be managed by the Board of Administration. The Board of Administration shall be comprised of three persons until such time as the Developer has conveyed title to all units in the Condominium. After such event occurs, the Board of

Administration shall be comprised of five persons. The members of the Board of Administration shall be elected by the members of the Association at the annual meeting of the membership as provided by the Bylaws. The Board of Administration may employ a managing agent, agency and/or other managerial and supervisory personnel or entity to administer or assist in the administration of the operation and management of the condominium and the affairs of the Association and any and all such persons and/or entities may be so employed without regard to whether any such person or entity is a member of the Association or a member of the Board of Administration or officer of the Association, as the case may be.

The Board of Administration shall have a President, a Secretary and a Treasurer, and if so decided one or more assistants to such offices. The officers of the Association shall act subject to the direction of the Board of Administration and shall be elected by a majority of the Board of Administration. The President shall be elected from the membership of the Board of Administration but no other officer need to be a member of the Board of Administration. The same person may hold two offices.

The Developer shall have the right to maintain control of the Association subject to the provisions of the Condominium Act and considering the fact that this Association is created for the purposes of operating and managing the condominium property.

#### ARTICLE VII

The name and address of the members of the first Board of Administration, who subject to the provisions of the laws of the State of Florida, these Articles of Incorporation and the Bylaws, shall hold office until their successors are elected pursuant to provisions and procedures set forth in the by-laws, and take possession, are as follows:

<u>NAME</u>	<u>ADDRESS</u>
William Vento	11030 North Kendall Dr., Suite 100 Miami, Florida 33176
Rigoberto Avila	11030 North Kendall Dr., Suite 100 Miami, Florida 33176
Evelyn Gonzalez	11030 North Kendall Dr., Suite 100 Miami, Florida 33176

The subscribers to these Articles of Incorporation are the persons wherein named to act and serve as members of the first Board of Administration of the Association. The names of the subscribers and their addresses are set forth in Article VII hereof.

ARTICLE VIII

The officers of the corporation who shall hold office until their successors are elected pursuant to these Articles of Incorporation and the Bylaws shall be the following:

PRESIDENT:	Rigoberto Avifa
SECRETARY:	William Vento
TREASURER:	Evelyn Gonzalez

ARTICLE IX

The original Bylaws of the Association shall be adopted by a majority of the subscribers to these Articles of Incorporation at a meeting at which a majority of the subscribers is present, and thereafter, in order for such amendment to become effective, the same must be approved by an affirmative vote of the owners of units to which not less than seventy five per cent of the common elements are appurtenant and a copy of such amendment to these bylaws shall be transcribed, certified by President and Secretary of the Association and a copy thereof shall be incorporated into and Amendment of the Declaration and recorded in the Public Records of Miami Dade County, Florida within thirty days from the date of which amendment have been affirmatively approved by the members.

ARTICLE X

Every member of the Board of Administration and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party, or in which he may become involved by reason of his being or having been a member of the Board of Administration or officer of the Association, whether or not he is a Board of Administration or officer at the time such expenses are incurred, except in such cases wherein the member of the Board of Administration or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that, in the event of any claims for reimbursement or indemnification hereunder based upon a settlement by the member or officer seeking such reimbursement or indemnification, the indemnification herein shall apply only if the Board of Administration approves such settlement and reimbursement as being for the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights which such member or officer may be entitled. The Association shall carry errors and omission insurance in favor of officers and members of the Board of Administration.

ARTICLE XI

An amendment or amendments to these Articles of Incorporation may be proposed by the Board of Administration or the Association acting upon a vote of the majority of the members, or by the members of the Association owning a majority of the units in the condominium at that time

declare or added, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to these Articles of Incorporation being proposed by the Board or member, such proposed amendment shall be transmitted to the President of the Association or the acting chief executive officer in the absence of the President, who shall thereupon call a special meeting of the membership for a date not sooner than twenty days or later than sixty days from the receipt by him of the proposed amendment, and it shall be the duty of the Secretary to provide each member written notice for such meeting stating the time and place of the meeting and reciting the proposed amendments in reasonable detailed form which notice shall be mailed or presented personally to each member not less than fourteen days nor more than thirty days before the date set for such meeting. If mailed, such notice shall be deemed properly given when deposited in the United States mail, addressed to the member at his post office address as it appears on the records of the Association with postage thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice and such waiver when filed in the records of the Association whether before, during or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. At such meeting the amendment proposed must be approved by an affirmative vote of the member owning not less than two-thirds of the units in the condominium in order for such amendment to become effective. Thereupon, such amendments of these articles of incorporation shall be transcribed and certified in such form as may be necessary to file the same in the office of the Secretary of the State of Florida. A certified copy of each such amendment shall be recorded in the Public Records of Miami Dade County, Florida within thirty days from the date on which the same is filed in the office of the Secretary of State. Notwithstanding the Incorporation which shall abridge, amend or alter the right of the Developer to designate and select members of the Board of Administration, may be adopted or become effective without the prior written consent of Developer.

#### ARTICLE XII

1. When unit owners other than the developer own 15 percent or more of the units in a condominium that will be operated ultimately by an association, the unit owners other than the developer shall be entitled to elect no less than one-third of the members of the board of administration of the association. Unit owners other than the developer are entitled to elect not less than a majority of the members of the board of administration of an association:
  - a) Three years after 50 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;
  - b) Three months after 90 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;
  - c) When all the units that will be operated ultimately by the association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered by sale by the developer in the ordinary course of business;

- d) When some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the developer in the ordinary course of business; or
  - e) Seven years after recordation of the declaration of condominium; The developer is entitled to elect at least one member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business at least 5 percent, in condominiums with fewer than 500 units, and 2 percent, in condominiums with more than 500 units, of the units in a condominium operated by the association. Following the time the developer relinquishes control of the association, the developer may exercise the right to vote any developer-owned units in the same manner as any other unit owner except for purposes of reacquiring control of the association or selecting the majority members of the board of administration.
2. At the time unit owners other than the developer elect a majority of the members of the board of administration of an association, the developer shall relinquish control of the association, and the unit owners shall accept control. Simultaneously, or for the purposes of paragraph (c) not more than 90 days thereafter, the developer shall deliver to the association, at the developer's expense, all property of the unit owners and of the association which is held or controlled by the developer, including, but not limited to, the following terms, if applicable, as to each condominium operated by the association:
- a) 1) The original or photocopy of the recorded declaration of condominium and all amendments thereto. If a photocopy is provided, it shall be certified by affidavit of the developer or an officer or agent of the developer as being a complete copy of the actual recorded declaration.
  - 2) A certified copy of the articles of incorporation of the association or, if the association was created prior to the effective date of this act and it is not incorporated, copies of the document creating the association.
  - 3) A copy of the bylaws.
  - 4) The minute books, including all minutes, and other books and records of the association, if any.
  - 5) Any house rules and regulations which have been promulgated.



- b) Resignations of officers and members of the board of administration who are required to resign because the developer is required to relinquish control of the association.
- c) The financial records, including financial statements of the association through the date of the turnover. The records shall be audited for the period from the incorporation of the association or from the period covered by the last audit, if applicable, by an independent certified public accountant. All financial statements shall be prepared in accordance with generally accepted auditing standards, as prescribed by the Florida Board of Accountants, pursuant to chapter 473. The accountant performing the audit shall examine to the extent necessary supporting documents and records, including the cash disbursements and related paid invoices to determine if expenditures were for association purposes and the billings, cash, receipts, and related records to determine that the developer was charged and paid the proper amounts of assessments.
- d) Association funds or control thereof.
- e) All tangible personal property that is property of the association, which is represented by the developer to be part of the common elements or which is ostensibly part of the common elements, and an inventory of that property.
- f) A copy of the plans and specifications utilized in the construction or remodeling of improvements and the supplying of equipment to the condominium and in the construction and installation of all mechanical components serving the improvements and the site with a certificate in affidavit form of the developer or his agent or an architect or engineer authorized to practice in this state that such plans and specifications represent to the best of his knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the condominium property and for the construction and installation of the mechanical components serving the improvements. If the condominium property has been declared a condominium more than 3 years after the completion of construction or remodeling of the improvements, the requirements of this paragraph do not apply.
- g) A list in the names and addresses, of which the developer had knowledge at any time in the development of the condominium, of all contractors, subcontractors, and suppliers utilized in the construction or remodeling of the improvements and in the landscaping of the condominium or association property.

- h) Insurance policies.
- i) Copies of any certificates of occupancy which may have been issued for the condominium property.
- j) Any other permits applicable to the condominium property which have been issued by governmental bodies and are in force or were issued within 1 year prior to the date the unit owners other than the developer take control of the association.
- k) All written warranties of the contractor, subcontractor, suppliers, and manufactures, if any, that are still effective.
- l) A roster of unit owners and their addresses and telephone numbers, if known, as shown on the developer's records.
- m) Leases of the common elements and other leases to which the association is a party.
- n) Employment contracts or service contracts in which the association is one of the contracting parties or service contracts in which the association or unit owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service.
- o) All other contracts to which the association is a party.

#### ARTICLE XIII

The principal place of business is 11030 N. Kendall Drive, Suite 100, Miami, Florida 33176.

#### ARTICLE XIV

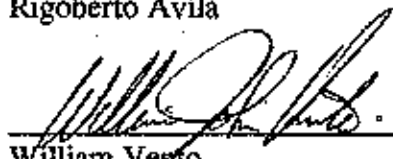
The registered agent and his address is:

William Vento  
11030 N. Kendall Drive, Suite 100  
Miami, Florida 33176

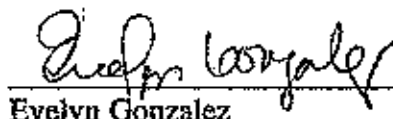
IN WITNESS WHEREOF, the Subscribers have hereunto set their hands and seals this the 20th day of March, 1998.



Rigoberto Avila



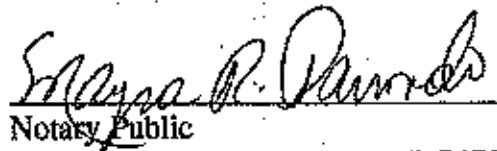
William Vento



Evelyn Gonzalez

STATE OF FLORIDA  
COUNTY OF MIAMI DADE

The foregoing instrument was acknowledged before me by Rigoberto Avila, William Vento and Evelyn Gonzalez, this 20th day of March, 1998, who is/are personally known to me or who has/have produced driver's license as identification and who did/did not take an oath.



Notary Public

My Commission Expires: 12/18/99



MAYRA R. PARRONDO  
My Comm Exp. 12/18/99  
Bonded By Service Ins  
No. CC519245  
 Personally Known  Other I.D.

**CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE SERVICE OF PROCESS WITHIN FLORIDA, NAMING AGAIN UPON WHOM PROCESS MAY BE SERVED IN COMPLIANCE WITH SECTION 48.091 FLORIDA STATUTES. THE FOLLOWING IS SUBMITTED:**

**FIRST:** The Royal Poinciana Industrial Park Condominium No. 1 Association, Inc, a Florida Corporation, desiring to organize or qualify under the Laws of the State of Florida with its principal place of business at the City of Miami, Florida has named William Vento at 11030 N. Kendall Drive, Suite 100, Miami, Florida 33176, as its resident Agent to accept service of process within the State of Florida.

**SECOND:** That Royal Poinciana Industrial Park Condominium No. 1 Association, Inc, hereby names 11030 N. Kendall Drive, Suite 100, Miami, Florida 33176 as its principal place of business.

Signature: William J. Vento  
Title: President  
Date: 3/26/98

Having been named to accept service of process for the above stated corporation at the place designated in this certificate, I hereby agree to act in this capacity and I further agree to comply with the provision of all statutes relative to the proper and complete performance of my duties.

Signature: William J. Vento  
Date: 3/26/98

## Exhibit 5

## Bylaws Of Royal Poinciana Industrial Park Condominium No. 1 Association, Inc

## Generally.-

(a) The operation of the association shall be governed by the articles of incorporation, and the bylaws of the association, which shall be included as exhibits to the recorded declaration.

(b) No amendment to the articles of incorporation or bylaws is valid unless recorded with identification on the first page thereof of the book and page of the public records where the declaration of each condominium operated by the association is recorded.

## I Identity

A. These are the Bylaws of Royal Poinciana Industrial Park Condominium No. 1 Association, Inc, ("the Association"), a Florida Corporation not for profit, the Articles of Incorporation ("the Articles") which were filed in the office of the Secretary of the State of Florida on 11 day of APRIL, 1998. The Association has been organized for the purposes of administering the operation and management of the Royal Poinciana Industrial Park Condominium No. 1 Association, Inc, ("the Condominium") to be established in accordance with the Florida Condominium Act ("the Act") upon the land situated in Miami-Dade County, Florida.

B. The provision of these Bylaws are applicable to the condominium and are subject to the provision of the Articles, a copy of the Articles and a copy of these Bylaws will be annexed as an exhibit to the Declaration of Condominium ("the Declaration") which will be recorded in the Public Records of Miami-Dade County, Florida. The terms and provisions of the Articles of Declaration shall control wherever the same may be in conflict herewith.

C. All members of the Association and their invitees, including without limitation, all present or future owners and tenants of dwelling units in the Condominium ("the Units") and other persons using the Condominium or any of the facilities thereof in any manner, are subject to these Bylaws, the Articles and the Declaration.

D. This office of the Association shall be at the site of the premises of the Condominium or at such other place as may be established by resolution of the Board of Administration.

E. The Fiscal year of the Association shall be the calendar year.

F. The seal of the Association shall bear the name of the Association, the word Florida, the words Corporation not for profit and the year of incorporation.

## II Membership, Voting, Quorum and Proxies.

A. The qualification of Members of the Association ("the Members"), the manner of their admission to membership and termination of such membership and voting by Members shall be as set forth in the Articles, the provisions of which are incorporated herein by reference.

B. A quorum, meeting of Members, shall consist of persons entitled to cast a majority of the votes, of the entire membership. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof, shall constitute the presence of such persons for the purposes of determining a quorum.

C. The vote of the ownership of a unit owned by more than one natural person, such as tenants in common, joint tenants (except a husband and a wife as tenants in their entirety), a partnership or any other association of natural persons, or by a corporation, a trust, or any other entity shall be cast or otherwise exercised, at a meeting at which members of the Association are entitled to vote or otherwise act by one natural person designated by the owner of such unit as the "Primary Occupant" thereof. In each instance when title to a unit is proposed to be occupied or

is otherwise to become vested in more than one natural person (except a husband and wife as tenants in their entirety), a partnership or any association of natural persons, or by a corporation, a trust, or any other entity, the prospective owner shall, by written instrument acceptable to the Association, designate one natural person as the Primary Occupant. The designated Primary Occupant shall be and remain the Primary Occupant of the Unit until such designation has been revoked by a written instrument executed by the owner of the unit or by lawful conveyance of the unit. The Primary Occupant of the unit shall be the only person entitled to cast, or exercise, in person or by proxy, the vote of the owner of such unit at any meeting of Members or in connection with any action concerning which Members of the Association shall be required or allowed to vote or otherwise act.

D. Evidence of the approval or disapproval of the owner of a unit upon any matter, whether or not the subject of an Association meeting, shall be given to the Association by the same person who would cast the vote of such owner if in an Association meeting.

E. Except where otherwise required under the provisions of the Articles, these Bylaws, or the Declaration, or where the same otherwise be required by law, the affirmative vote of the owners of a majority of the units represented at any meeting of the members duly called and at which a quorum is present shall be binding upon the members.

Except as specifically otherwise provided herein, unit owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the divisions. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves, for votes taken to waive financial statement requirements as provided by S. 718.111(14); for votes taken to amend the Articles of Incorporation or the Bylaws pursuant to this section. No proxy, limited or general, shall be used in the election of board members. General proxies may be used for other matters for which limited proxies are not required, and may be used in voting for non substantial changes to items for which a limited proxy is required and given. Notwithstanding the provisions of this subparagraph, unit owners may vote in person at unit owner meetings.

Any proxy given shall be effective only for the specific meeting for which originally given at any lawfully adjourned meeting thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy is revocable at any time at the pleasure of the unit owner executing it.

### III Annual and Special Meeting of the Membership

A. The annual meeting of Members shall be held at the office of the Association or such other place in Miami-Dade County, Florida, as may be specified in the notice of the meeting, at 7:00 P.M. on the second Tuesday in May of each year for the purposes of electing members of the Board of Administration and transacting any other business authorized to be transacted by the Members. If such date shall be a legal holiday, the annual meeting date shall be the next succeeding regular business day. Written notice shall be given to each unit owner at least 14 days prior to the annual meeting and shall be posted in a conspicuous place on the condominium property at least 14 continuous days prior to the annual meeting.

B. A special meeting of Members shall be held whenever called by the President, Vice-President, or by a majority of the Board of Administration, and must be called by such officer, upon receipt of a written request from members owning a majority of the units.

**Budget Meetings** - If an adopted budget requires assessments against the unit owners in any fiscal year or calendar year, which exceed 115 percent of the assessments for the preceding year, the Board, upon written application of 10 percent of the voting interest, shall call a special meeting of the unit owners within 30 days, with no less than 10 days prior written notice to each unit owner.

**Recall Meeting** - A special meeting of the unit owners to recall a member or

members of the Board of Administration may be called by 10 percent of the voting interests, giving notice of the meeting as required for a meeting of unit owners, and the notice shall state the purpose of the meeting.

C. Notice of all meetings shall be given by the Secretary or in the absence of the Secretary, another officer of the Association to each Member (unless waived in writing). Each of the notices shall be written or printed and shall state the time and place of and purpose for which the meeting is called. Each notice shall be given to each member at least 14 days prior to the annual meeting and shall be posted in a conspicuous place on the condominium property at least 14 continuous days preceding the annual meeting. The Board shall, by duly adopted rule, designate a specific location on the condominium property or association property upon which all notices of unit owner meetings shall be posted; however, if there is no condominium property or association property upon which notices can be posted, the requirement does not apply. Unless a unit owner waives in writing the right to receive notice of the annual meeting by mail, the notice of the annual meeting shall be deemed properly given when deposited in the United States Regular Mail, addressed to the Member at his post office address as it appears on the records of the Association, with postage thereof prepaid. Proof of mailing shall be given by an affidavit of the person giving the notice. Any Member may, in writing signed by such Member, waive such notice and such waiver, when filed in the records of Association whether before, at or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. Each Notice shall be, in addition to being posted in a conspicuous place in each building of the Condominium posted at least fourteen continuous days prior to said meeting. If any meeting of Members cannot be held because a quorum is not present, or because a greater percentage of the membership required to constitute a quorum for the particular purposes is not present, wherever the latter percentage of attendance may be required as set forth in the Articles, Bylaws or the Declaration, the Members who are present either in person or by proxy, may adjourn the meeting from time to time until a quorum or the required percentage of attendance, if greater than a quorum, is present. Where a unit is owned by more than one person, the Association shall provide notice for meetings and all other purposes to that one address which Developer initially identifies for that purpose and thereafter as one or more of the unit owners shall so advise the Association in writing or if no address is provided or if the owner of the unit does not agree, to the address provided on the Deed of record.

D. At the meeting of Members, the Chairman of the Board, or in his absence, the President, shall preside, or in the absence of both, the Members present shall select a chairman of the meeting.

E. The order of business at the annual meeting of Members, and, as far as practical at other meetings of Members shall be:

1. Calling of the roll and certifying of proxies.
2. Proof of notice of meeting or waiver of notice.
3. Reading or waiver of reading of the minutes of previous meeting.
4. Reports of the Officers.
5. Reports of Committees.
6. Appointments by Chairman of inspectors of election.
7. Election of Members of the Board of Administration.
8. Unfinished business.
9. New business.

## 10. Adjournment.

## IV Board of Administration

A. The first Board of Administration shall consist of three persons who shall be the subscribers to the Articles of Incorporation. Succeeding Board of Administration members shall consist of three persons. At least the majority of each succeeding Board of Administration shall be members of the Association or shall be authorized representatives, officers, or employees of a corporate member of the association.

1. When unit owners, other than the Developer own 15 percent or more of the units in a condominium that will be operated ultimately by an Association, the unit owners, other than the Developer, shall be entitled to elect no less than one-third of the members of the Board of Administration of the Association. Unit owners, other than the Developer, are entitled to elect not less than a majority of the members of the Board of Administration of an Association:

(a) Three years after 50 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

(b) Three months after 90 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

(c) When all the units will be operated ultimately by the association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered by sale by the developer in the ordinary course of business;

(d) When some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the developer in the ordinary course of business; or

(e) 7 years after recordation of the declaration, whichever occurs first. The developer is entitled to elect at least one member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business at least 5 percent, in condominiums with fewer than 500 units, of the units in a condominium operated by the association. Following the time the developer relinquishes control of the association, the developer may exercise the right to vote any developer-owned units in the same manner as any other unit owner except for purposes of reacquiring control of the association or selecting the majority members of the board of administration.

B. Directors shall be elected in the following manner:

1. Commencing with the election of the first Board to succeed the Board comprised of the subscribers of the Articles, Developer shall designate the number and the identity of the members of the Board which it shall be entitled to designate in accordance with the Articles and these Bylaws and upon such designation by Developer by written instrument presented to the meeting at which such election is held, the persons so designated by Developer shall be deemed and considered for all purposes members of the Board and shall thenceforth hold the offices and perform the duties of such officers until their successors shall have been elected or designated as the case may be and qualified in accordance with the provision of these bylaws.

2. All members of the Board whom Developer shall not be entitled to designate under these Bylaws shall be elected by a majority of votes cast at the annual meeting of the members immediately following the designation of the members of the Board whom Developer shall be entitled to designate.

3. Vacancies of the Board may be filled to expire on the date of the next annual meeting by the remaining members, except that, should any vacancy in the Board be created in any membership previously filled by any person designated by Developer, such vacancy shall be



filled by Developer, such vacancy shall be filled by the Developer designating, by written instrument delivered to any officer of the Association the successor member of the Board who shall fill the vacated membership for the unexpired term thereof.

4. If, at the time of the first annual meeting of the members unit owners other than the Developer are entitled to elect some or all of the members of the Board, the terms of office of such members shall be one year. The term of office of all member of the Board designated by the Developer shall also be for one year. Members of the Board shall hold office for the terms which were elected or designated and thereafter until their successor are duly elected, designated by Developer and qualified or until removed in the manner elsewhere herein provided for or as provided by law.

5. In the event that Developer selects any person or persons to serve on any Board, Developer shall have the absolute right at any time in its sole discretion to replace any such person or persons with another person or persons to serve on the Board. Replacement of any person or persons designated by Developer to serve on any board shall be made by written instrument delivered to any officer of the Association which instrument shall specify the name or names of the person or persons designated as successor or successors to the person so removed from the Board. The removal of any member and designation of his successors shall be effective immediately upon delivery of such written instrument by Developer to any officer of the Association.

C. The organization meeting of a newly elected or designated Board shall be held immediately following the adjournment of the membership meeting at which they were elected and no further notice of the organizational meeting shall be necessary; provided that a quorum shall be present.

D. Special meeting of the Board may be called by the President and must be called by the Secretary at the written request of one third of the member of the Board. Not less than 14 days notice of a special meeting shall be given to each member of the Board, personally or by mail, telephone or telegram which notice shall state the time, place and purpose of the meeting. Such notice shall also be posted in a conspicuous place in each building of the Condominium at least 14 continuous days prior to said meeting.

E. All meetings of the Board of Administration shall be open to all unit owners.

F. Any member of the Board may waive notice of a meeting before, at or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

G. A quorum at meetings of the Board shall consist of the members entitled to cast a majority of the votes of the entire Board. The act of the Board approved by a majority of the votes presents at a meeting, at which a quorum is present shall constitute the act of the Board of Administration, except as may be specifically otherwise provided in the Articles, these By-Laws or the Declaration. If any meeting of the Board cannot be held because a quorum is not present or because the greater percentage of the member of the Board required to constitute a quorum for the particular purposes is not present, then the meeting shall be lawfully adjourned and rescheduled pursuant to Section 718.112.

H. The presiding officer of meetings of the Board shall be the Chairman of the Board, if such officer has been elected or if not the President of the Association. In the absence of the presiding officer, the members of the Board shall designate one of their number to preside.

I. All of the powers and duties of the Association shall be exercised by the Board, including those existing under the law of Florida, the Articles, these Bylaws and the Declaration. Such powers and duties shall be exercised in accordance with the Articles, these Bylaws and the Declaration and shall include, without limitation, the right, power and authority to do the following:

1. Make, levy and collect assessments against members of the Association and member's units to defray the cost of the Condominium including if assessed to the Condominium as a whole the cost of paying assessments levied against the Condominium by governmental entities and to use the proceeds of assessments in exercise of the power and duties of the Association. Assessments shall be made against units not less frequently than quarterly in an amount which is not less than that required to provide funds in advance for payments of all of the anticipated current operating expenses and for all of the unpaid operating expenses and for all of the unpaid operating expenses previously incurred. Nothing in this paragraph shall preclude the right of the Association to accelerate assessment of an owner delinquent in payment of common expenses. Accelerated assessments shall be due and payable on date the claim of lien is filed. Such accelerated assessments shall include the amount due for the remainder of the budget year in which the claim of lien was filed;

2. Maintain repair replace operate and manage the condominium wherever the same is required to be done and accomplished by the Association for the benefit of members;

3. Repair and reconstruct improvement after casualty;

4. Make and amend regulations governing the use of the property real and personal, in the condominium provided that such regulation or amendments thereto shall not conflict with the restrictions and limitation which may be placed upon the use of such property under the terms of the Articles and the declaration;

5. Acquire own hold operate lease encumber convey exchange manage and otherwise deal and trade with the property real and personal including units of and in the Condominium, as may be necessary or convenient in the operation and management of the condominium and in accomplishing the purposes set forth in the Declaration;

6. Contract for the management of the condominium and in connection therewith to delegate all of the powers and duties of the Association, except those which may be required by the Declaration to have approval of the Board members of the Association;

7. Enforce by legal means the provision of the Articles, these bylaws the Declaration and all regulation governing use of the property of and in condominium hereafter adopted;

8. *Fidelity bonds*- The association shall obtain and maintain adequate fidelity bonds on all persons who control or disburse funds of the association. As used in this section, the term "persons who control or disburse bonds of the association" means those individuals authorized to sign checks and the president, secretary and treasurer of the association. If an association's annual gross receipts do not exceed \$100,000, the bond shall be in the principle sum of not less than \$10,000 for each such person. If an association's annual gross receipts exceed \$100,000, but not to exceed \$300,000, the bond shall be in the principle sum of \$30,000, for each such person. If an association's annual gross receipt exceeds \$300,000, the bond shall be in the principle sum of \$50,000, for each such person. The association shall bear the cost of the bonding.

9. Pay all cost of power, water, sewer and other utility services rendered to the condominium and not billed to the owners of the separate units;

10. Employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association;

J. *Board of administration meetings* - The first Board of Administration of the Association shall be comprised of the three subscribers to the Articles. Thereupon, subscribers of the Articles who shall serve until their successors are designated by the Developer or elected at the annual meeting of the Board to be held by the Association. Should any member of the first Board be unable to serve for any reason, Developer shall have the right to select and designate a

successor to act and serve for the unexpired term of the member who is unable to serve. Meetings of the board of administration and any committee thereof at which a quorum of the members of that committee is present shall be open to all unit owners. Any unit owner may tape record or videotape meetings of the board of administration. The right to attend such meetings include the right to speak at such meetings with reference to all designated agenda items. The association may adopt reasonable rules governing the frequency, duration, and manner of unit owner statements.

Adequate notice of all meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the condominium property 48 continuous hours preceding the meeting except in an emergency. However, written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding unit use, will be proposed, discussed, or approved, shall be mailed or delivered to the unit owners and posted conspicuously and continuously on the condominium property not less than 14 days prior to the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the secretary and filed among the official records of the association. Upon notice to the unit owners, the board shall by duly adopt rule designate a specific location on the condominium property upon which all notices of the board meeting shall be posted. Notice of any meeting in which regular assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

K. *Unit owner meetings.*

1. There shall be an annual meeting of the unit owners. A vacancy on the board of administration cause by the expiration of a director's term shall be filled by electing a new board member. The terms of all the members of the board of administration shall expire upon the election of their successors at the annual meeting. Any unit owner desiring to be a candidate for board membership shall comply with subparagraph 3.

2. Written notice, which notice shall incorporate an identification of agenda items, shall be given to each unit owner at least 14 days prior to the annual meeting and shall be posted in a conspicuous place on the condominium property at least 14 continuous days preceding the annual meeting. Upon notice to the unit owners, the board shall by duly adopt rule designate a specific location on the condominium property upon which all notices of unit owner meetings shall be posted. Unless a unit owner waives in writing the right to receive notice of the annual meeting by mail, the notice of the annual meeting shall be sent by mail to each unit owner. Where a unit is owned by more than one person, the association shall provide notice, for meetings and all other purposes, to that one address which the developer initially identifies for that purpose and thereafter as one or more of the owners of the unit shall so advise the association in writing, or if no address is given or the owners or the owners of the unit do not agree, to the address provided on the deed of the record.

An officer of the association, or the manager or other person providing notice of the association meeting, shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered, in accordance with this provision, to each unit owner at the address last furnished to the association.

3. The members of the board of administration shall be elected by the written ballot or voting machine. Proxies shall in no event be used in electing the board of administration, either in general elections or elections to fill vacancies caused by the recall, resignation, or otherwise, unless otherwise provided in this chapter. Not less than 60 days before a scheduled election, the association shall mail or deliver, whether by separate association mailing or included in another association mailing or delivery including regularly published newsletters, to each unit owner entitled to vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate for the board of administration must give written notice to the association not less than 40 days before a scheduled election. Together with written

notice and agenda as set forth in subparagraph 2, the association shall mail or deliver a second notice of the election to all unit owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request of a candidate the association shall include an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing of the ballot, with the cost of mailing or delivery and copying to be borne by the association. However, the association has no liability of the contents of the information sheet prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of the board of administration. No unit owner shall permit any other person to vote his ballot, and any such ballots improperly cast shall be deemed invalid. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain assistance in casting the ballot. Any unit owner violating this provision may be fined by the association in accordance with s. 718.303. The regular election shall occur on the date of the annual meeting. Notwithstanding the provisions of this subparagraph, an election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the board.

4. Any approval by unit owners called for by the declaration and bylaws, shall be made at a duly noticed meeting of the unit owners and shall be subject to all requirements of this chapter or the applicable condominium documents relating to unit owner decision making, except that unit owners may take action by written agreement without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws or declaration or any statute which provides for such action.

5. Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration of any statute.

6. Unit owners shall have the right to participate in meetings of unit owners with reference to all designated agenda items. However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation.

7. Any unit owner may tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the division.

#### V Additional Provision - Meeting of Members and Directors

A. The Board shall elect a President, Secretary Treasurer and as many vice president assistant secretaries and assistant treasurers as the Board shall deem advisable from time to time. The president shall be elected from the membership of the Board, but no other officer need be a member of the Board. The same person may hold two offices, the duties of which are not incompatible. The Board may from time to time elect such other officers and designate their powers and duties as the Board may deem necessary properly to manage the affairs of the Association. Officer may be removed from office by the Board.

B. The President shall be the chief executive officer of the Association. He shall have all of the power and duties which are usually vested in the office of President of a corporation not for profit, including but not limited to the power to appoint committees among the members from time to time as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association. He shall have such additional powers as the Board may designate.

C. The Vice president shall in the absence or disability of the President exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other duties as shall be prescribed by the Board.

D. The Secretary shall keep the minutes of all proceeding of the Board and the members. He shall attend to the giving and serving of all notices to the members of the board and such other notices as may be required by law. He shall have custody of the seal of the association

and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association except those of the Treasurer and shall perform all other duties incident to the office of Secretary of a corporation not for profit and as may be required by the Board and the President. The assistant Secretary shall perform the duties of Secretary when the Secretary is absent.

E. The treasurer shall have custody of all of the property of the Association, including funds securities and evidence of indebtedness. He shall keep the assessment rolls and account of the members; he shall keep the books of the association in accordance with good accounting practices and he shall perform all other duties incident to the office of Treasurer.

F. The officers shall serve without compensation and at the pleasure of the Board of Administration. This provision shall not preclude the Board from employing a member of the Board as an employee of the Association, nor preclude contracting with a member of the Board for the management of the condominium.

G. Any member of the Board of Administration may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all the voting interest. A special meeting of the unit owners to recall a member or members of the board of administration may be called by 10% of the voting interest giving notice of the meeting as required for a meeting of unit owners and the notice shall state the purpose of the meeting

1. If the recall is approved by a majority of all voting interest by a vote at a meeting, the recall shall be effective as provided herein. The Board shall duly notice and hold a board meeting within five full business days of the adjournment of the unit owner meeting to recall one or more board members. At the meeting, the board shall either certify the recall, in which case such member or members shall be recalled effective immediately and shall turn over to the board within five full business days any and all records and property of the association in their possession, or shall proceed as set forth in subparagraph 3.

2. If the proposed recall is by an agreement in writing by a majority of all voting interests the agreement in writing or a copy thereof shall be served on the association by certified mail or by personal service in the manner authorized by Chapter 48 and the Florida Rules of Civil Procedure. The Board of administration shall duly notice and hold a meeting of the Board within 5 full business days after receipt of the agreement in writing. At the meeting, the board shall either certify the written agreement to recall a member or members of the Board, in which case such member or members shall be recalled effective immediately and shall turn over to the Board within 5 full business days any and all records and property of the association in their possession or proceed as described in subparagraph 3.

3. If the board determines not to certify the written agreement to recall members of the board, or does not certify the recall by a vote at a meeting, the board shall, within 5 full business days after the board meeting, file with the division a petition for binding arbitration pursuant to the procedure in F.S. 718.1255. For the purposes of this section, the unit owners who vote at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies, the recall as to any member or members of the board, the recall shall be effective upon mailing of the final order of arbitration to the association. If the association fails to comply with the order of the arbitrator, the division may take action pursuant to F.S. 718.501. Any member or members so recalled shall deliver to the Board any and all records and property of the association in their possession within 5 full business days of the effective date of the recall.

4. If the board fails to duly notice and hold a board meeting within 5 full business days of service of an agreement in writing or within 5 full business days of the adjournment of the unit owner recall meeting, the recall shall be deemed effective and the board member so recalled shall immediately turn over to the board any and records and property of the association.

## VI. Fiscal Management

The provision for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provision:

A. The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each unit. Such account shall designate the name and mailing address of the owner and mortgagee (if known) of each unit, the amount of each assessment and due date thereof, and all amount paid and the balance due upon such assessment.

B. The Board shall adopt for and in advance of each calendar year a budget showing the estimated cost of performing all of the functions of the Association from the year.

1. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by account and expenses classifications, including if applicable but not limited to, those expenses listed in F.S. 718.504.(20).

2. In addition to annual operating expense the budget shall include a reserve account for the capital expenditure and deferred maintenance for any item for which the deferred maintenance expense or replacement cost is greater than \$10,000.00 these accounts all include but not limited to roof, replacement, building painting and pavement resurfacing. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expenses of each reserve item.

Unless changed by the Board the fiscal year of the Association shall be the calendar year. If any budget is subsequently amended, a copy shall be furnished to each effected member. Delivery of a copy of any budget or amended budget to a member shall not effect the liability of any member for any such budget or amended budget be considered as a condition precedent to effectiveness of the budget and assessments levied pursuant thereto. Nothing herein contained shall be construed as a limitation upon the additional assessment in the event that any budget originally adopted shall appear to be insufficient to pay cost and expenses or operation and management or in the event of emergencies.

C. A copy of the proposed annual budget of the association shall be mailed to the units owners not less than 14 days prior to the meeting of the board at which the budget will be considered, together with a Notice of the time and place of that meeting. Such meeting of the Board shall be open to unit owners. The budget may be adopted by the board of administration. The unit owners shall be given written notice of the time and place of the meeting of the board of administration which shall consider the budget. If a budget is adopted by the Board which requires assessment of the unit owners in any budget year exceeding 115% such assessment of the preceding budget year, upon written application of ten per cent of the unit owners, a special meeting of the units owners shall be held within 30 days, upon not less than 10 day's written notice to each unit owner. At which special meeting unit owners may consider and enact a budget. Unless the Bylaws require a larger vote, the adoption of the budget shall require a vote of not less than a majority of all the voting interest. The Board of Administration may propose a budget to the unit owners at a meeting of the members or in writing, and if the budget or proposed budget is approved by the unit owners at the meeting or by a majority of all the voting interest in writing, the budget shall be adopted.

D. In determining whether assessment exceed 115% of similar assessments in the prior budget year, there shall be excluded in the computation for reasonable reserves made by the Board in respect of repair and replacement of condominium property; provided however that so long as Developer is in control of the Board, the Board shall not impose an assessment for a budget year's assessment greater than 115% of the prior budget year's assessment without the approval of a majority of the whole number of votes of all unit owners.

E. Upon adoption of budgets, the Board shall cause a written copy thereof to be delivered to each unit owner. Assessments shall be established by the Board and in accordance

with terms of the Declaration and the Articles. Unit Owners shall be liable to pay assessment not more often than monthly. Provided however, that the lien rights of the Association shall not be impaired by failure to comply with procedures established pursuant to these bylaws.

F. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board, in which all monies of the Association shall be deposited. Withdrawals of monies from such bank shall be only be checks signed by such persons as are designated by the Board.

G. A summary of the accounts of the Association shall be prepared annually and a copy of the report shall be furnished to each member not later than April first of the year following the year for which the report is made.

H. The association may adjust replacement reserve assessments annually to take into account any changes in estimates of extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to budgets in which the members of an association have, by a majority vote at a duly called meeting of the association, determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection. However, prior to turnover of control of an association by a developer to unit owners other than a developer pursuant to s. 718.301, the developer may vote to waive or reduce the funding of the reserves for the first two years of the operation of the association, after which time reserves may only be waived or reduced upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association. If a meeting of the unit owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves as included in the budget shall go into effect.

I. Reserve funds and any interest accruing thereon shall remain in the reserve account for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the majority of the voting interest, voting in person or by limited proxy. Also pursuant to same, prior to turnover of control of the association, pursuant to Section 718.301 of the Florida Statutes, the developer-controlled association shall not vote to use reserves for purposes other than that for which they were intended without the approval of the majority of all nondeveloper voting interests, voting in person or by limited proxy.

## VII Parliamentary Rules

Robert Rules of Order shall govern the conduct of the corporate proceeding when not in conflict with the Articles, these Bylaws or the Laws of the State of Florida.

## VIII Amendment to Bylaws

Amendments to these By Laws shall be proposed and adopted in the following manner:

A. Amendments to these Bylaws may be proposed by the Board, acting upon vote of a majority of the member or members of the association owning a majority of the units in the condominium whether meeting at a members meeting or by instruments in writing signed by them.

B. Upon any amendment or amendments to these Bylaws being proposed by the Board of member of the Association, such proposed amendment shall be transmitted to the president of the Association or acting chief executive officer in the absence of the President, who shall thereupon call a special meeting of the member for a date not sooner than twenty days not later than sixty days from receipt by such officer of the proposed amendment and it shall be the duty of the Secretary to give each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members is required as herein set forth; provided that proposed amendment to the bylaws may be considered and voted upon at annual meeting of the members.

C. In order for such amendment to become effective, the same must be approved by an affirmative vote of the owners of units to which not less than seventy five per cent of the common elements are appurtenant and a copy of such amendment to these bylaws shall be transcribed, certified by President and Secretary of the Association and a copy thereof shall be incorporated into and Amendment of the Declaration and recorded in the Public Records of Miami-Dade County, Florida within thirty days from the date of which amendment have been affirmatively approved by the members.

D. At any meeting held to consider such amendment to these bylaws the written vote of any member shall be recognized if such member is not present at such meeting in person or by proxy provided such written vote is delivered to the Secretary at or prior to the meeting.

E. No amendment to the Bylaws is valid unless recorded with identification on the first page thereof of the book and page of the public records where the Declaration of each condominium operated by the association is recorded.

F. Notwithstanding the foregoing provision of this Articles VIII no amendment to these bylaws which shall abridge, amend or alter the right of the Developer to designate members of each Board of Administration as provided in these bylaws may be adopted or become effective without the written consent of the Developer.

#### IX Mandatory Nonbinding Arbitration of Disputes

The division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation shall employ full-time arbitrators to conduct the arbitration hearings provided by this chapter. No person may be employed by the department as a full-time arbitrator unless he is a member in good standing of The Florida Bar. The decision of an arbitrator shall be final; however, such a decision shall not be deemed final agency action. Nothing in this provision shall be constructed to foreclose parties from proceeding in a trial de novo. If such judicial proceedings are initiated, the final decision of the arbitrator shall be admissible in evidence.

A. Prior to the institution of court litigation, the parties to a dispute shall petition the division for nonbinding arbitration which action shall toll the applicable statute of limitations.

B. At the request of any party to the arbitration, such arbitration shall issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and any party on whose behalf a subpoena is issued may apply to the court for orders compelling such attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided by the law.

C. The arbitration decision shall be presented to the parties in writing. An arbitration decision shall be final if a complaint for a trial de novo is not filed in a court of competent jurisdiction within 30 days. The right to file for a trial de novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the dispute. The prevailing party may be awarded reasonable attorney's fees.

D. The party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, court costs, and other reasonable costs, including attorney's fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgement upon the trial de novo is not more favorable than the arbitration decision. If the judgement is more favorable, the party who filed the complaint for trial de novo shall be awarded reasonable court costs and attorney's fees.

E. Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in the circuit court for the circuit in which the arbitration took place. A petition may not be granted unless the time for appeal by the filing of a complaint for trial de novo has expired. If a complaint for a trial de novo has been filed, a petition may not be granted with respect to an



arbitration award that has been stayed.

#### X Certificate of Compliance

A certificate of compliance from a licensed electrical contractor or electrician maybe accepted by the association's board as evidence of compliance of the Condominium units to the Condominium Fire and Life Safety Code. 718.112.

#### XI Assessments

Assessments shall be made against units monthly in an amount which is not less than that required to provide funds in advance for payment of all of the anticipated current operating expenses and for the all of the unpaid operating expenses previously incurred pursuant to the operating Budget. Nothing in this paragraph shall preclude the right of an association to accelerate assessments of an owner delinquent in payment of common expenses. Accelerated assessments shall be due and payable on the date the claim of lien is filed. Such accelerated assessments shall include the amounts due for the remainder of the budget year in which the claim of lien was filed.

Assessments; liability; lien and priority; interest; collection

A. **Lien for Assessment:** A unit owner, regardless of how his title has been acquired, including a purchaser at a judicial sale, is liable for all assessments which come due while he is the unit owner. The grantee is 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 transfer of title without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. A first mortgagee who acquires title to the unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid assessments that became due prior to the mortgagee's receipt of the deed. However, the mortgagee's liability is limited to a period not exceeding six months, but in no event does the first mortgagee's liability exceed one percent (1%) of the original mortgage debt. In no event shall the mortgagee be liable for more than 6 months of the unit's unpaid common expenses or assessments accrued before the acquisition of the title to the unit by the mortgagee or one percent of the original mortgage debt, whichever amount is less.

B. The liability for assessments may not be avoided by waiver of the use or enjoyment of any common element or by abandonment of the unit for which the assessments are made.

C. Assessments and installments on them which are not paid when due bear interest at the rate provided in the declaration, from the due date until paid. This rate may not exceed the rate allowed by law, and, if no rate is provided in the declaration, interest shall accrue at the rate of 18 percent per year. Also, the association may charge an administrative late fee in addition to such interest, in an amount not to exceed the greater of \$25 or 5 percent of each installment of the assessment for each delinquent installment that the payment is late.

Any payment received by an association shall be applied first to any interest accrued by the association, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessments. The foregoing shall be applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment. A late fee shall not be subject to the provisions in chapter 687 or s. 718.303(3).

The association has a lien on each condominium parcel for any unpaid assessments with interest and for reasonable attorney's fees incurred by the association which are incident to the collection of the assessments or enforcement of lien. The lien shall be recorded in the public records in the county in which the condominium parcel is located which states the description of the condominium parcel, the name of the record owner, the name and address of the association, the amount due, and the due dates. No such lien shall continue for a longer period than 1 year after the claim of lien has been recorded unless, within that time, an action to enforce the lien is

commenced in a court of competent jurisdiction. The claim of lien shall secure all unpaid assessments, interest, costs, and attorney's fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgement of foreclosure. A claim of lien must 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.

The association may bring an action in its name to foreclose a lien for assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgement for the unpaid assessments without waiving any claim of lien. The association is entitled to recover its reasonable attorney's fees incurred in either a lien foreclosure action or an action to recover a money judgement for unpaid assessments.

No foreclosure judgements may be entered until at least 30 days after the association gives written notice to the unit owner of its intention to foreclose a lien to collect the unpaid assessments. If this notice is not given at least 30 days before the foreclosure action is filed, and if the unpaid assessments, including those due after the claim of lien is recorded, are paid before the entry of a final judgement 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, address to the unit owner at his last known address; and, upon such mailing, the notice shall be deemed to have given, and the court shall 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. The notice requirements of this subsection do not apply if an action to foreclose a mortgage on the condominium unit is pending before any court; if the rights of any association would be affected by such foreclosure; and if actual, constructive, or substitute service of process has been made on the unit owner.

If the unit owner remains in possession of the unit after a foreclosure judgement has been entered, the court, in its discretion, may require the unit owner to pay a reasonable rental for the unit. If the unit is rented or leased during the pendency of the foreclosure action, the association is entitled to the appointment of a receiver to collect the rent. The expenses of the receiver shall be paid by the party that does not prevail in the foreclosure action.

The association has the power to purchase the condominium parcel at the foreclosure sale and to hold, lease, mortgage, or convey it.

A first mortgage acquiring title to a condominium parcel as a result of foreclosure, or a deed in lieu of foreclosure, may not, during the period of ownership of such parcel, whether or not such parcel is unoccupied, be excused from payment of some or all of the common expenses coming due during the period of such ownership.

Within 15 days after a request therefor by unit owner or unit mortgagee, the association shall provide a certificate stating all assessments and other moneys owed to the association by the unit owner with respect to the condominium parcel. Any person other than the owner who relies upon such certificate shall be protected thereby.

The specific purpose or purposes of any special assessment approved in accordance with the condominium documents shall be set forth in a written notice of such assessment sent or delivered to each unit owner. The funds collected pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in such notice. However, upon completion of such specific purpose or purposes, any excess funds will be considered common surplus, and may, at the discretion of the board, either be returned to the unit owners or applied as a credit toward future assessments.

## XII Transfer of Association Control

A. When unit owners other than the developer own 15 percent or more of the units in a condominium that will be operated ultimately by an association, the unit owners other than the

developer shall be entitled to elect no less than one-third of the members of the board of administration of the association. Unit owners other than the developer are entitled to elect not less than a majority of the members of the board of administration of an association:

1. Three years after 50 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

2. Three months after 90 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

3. When all the units that will be operated ultimately by the association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered by sale by the developer in the ordinary course of business;

4. When some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the developer in the ordinary course of business; or

5. 7 years after recordation of the declaration, whichever occurs first. The developer is entitled to elect at least one member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business at least 5 percent, of the units in a condominium operated by the association. Following the time the developer relinquishes control of the association, the developer may exercise the right to vote any developer-owned units in the same manner as any other unit owner except for purposes of reacquiring control of the association or selecting the majority members of the board of administration.

B. At the time unit owners other than the developer elect a majority of the members of the board of administration of an association, the developer shall relinquish control of the association, and the unit owners shall accept control. Simultaneously, not more than 90 days thereafter, the developer shall deliver to the association, at the developer's expense, all property of the unit owners and of the association which is held or controlled by the developer, including, but not limited to, the following terms, if applicable, as to each condominium operated by the association:

1. The original or photocopy of the recorded declaration of condominium and all amendments thereto. If a photocopy is provided, it shall be certified by affidavit of the developer or an officer or agent of the developer as being a complete copy of the actual recorded declaration.

2. A certified copy of the articles of incorporation of the association or, if the association was created prior to the effective date of this act and it is not incorporated, copies of the document creating the association.

3. A copy of the bylaws.

4. The minute books, including all minutes, and other books and records of the association, if any.

5. Any house rules and regulations which have been promulgated.

C. Resignations of officers and members of the board of administration who are required to resign because the developer is required to relinquish control of the association.

D. The financial records, including financial statements of the association through the date of the turnover. The records shall be audited for the period from the incorporation of the association or from the period covered by the last audit, if applicable, by an independent certified public accountant. All financial statements shall be prepared in accordance with generally accepted auditing standards, as prescribed by the Florida Board of Accountancy, pursuant to

chapter 473. The accountant performing the audit shall examine to the extent necessary supporting documents and records, including the cash disbursements and related paid invoices to determine if expenditures were for association purposes and the billings, cash, receipts, and related records to determine that the developer was charged and paid the proper amounts of assessments.

E. Association funds or control thereof.

F. All tangible personal property that is property of the association, which is represented by the developer to be part of the common elements or which is ostensibly part of the common elements, and an inventory of that property.

G. A copy of the plans and specifications utilized in the construction or remodeling of improvements and the supplying of equipment to the condominium and in the construction and installation of all mechanical components serving the improvements and the site with a certificate in affidavit form of the developer or his agent or an architect or engineer authorized to practice in this state that such plans and specifications represent to the best of his knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the condominium property and for the construction and installation of the mechanical components serving the improvements. If the condominium property has been declared a condominium more than 3 years after the completion of construction or remodeling of the improvements, the requirements of this paragraph do not apply.

H. A list in the names and addresses, of which the developer had knowledge at any time in the development of the condominium, of all contractors, subcontractors, and suppliers utilized in the construction or remodeling of the improvements and in the landscaping of the condominium or association property.

I. Insurance policies.

1. Copies of any certificates of occupancy which may have been issued for the condominium property.

J. Any other permits applicable to the condominium property which have been issued by governmental bodies and are in force or were issued within 1 year prior to the date the unit owners other than the developer take control of the association.

K. All written warranties of the contractor, subcontractor, suppliers, and manufactures, if any, that are still effective.

L. A roster of unit owners and their addresses and telephone numbers, if known, as shown on the developer's records.

M. Leases of the common elements and other leases to which the association is a party.

N. Employment contracts or service contracts in which the association is one of the contracting parties or service contracts in which the association or unit owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service.

O. All other contracts to which the association is a party.

### XIII Right to Retain Control

The Developer has the right to retain control of the Association after a majority of the units have been sold. Such rights of the Developer are pursuant to the Condominium Act and Article IV of the Bylaws.

## XIV Miscellaneous

A. The following is the procedure for a hearing for all unit owners before the association may levy a fine against an owner of a unit or its occupant, licensee or invitee for failure to abide by any provision of the Declaration, the association bylaws or rules of the association the association must allow the following:

B. The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing before a committee of unit owners after reasonable notice of not less than fourteen (14) days and said notice shall include:

1. A statement of the date, time and place of hearing;
2. A statement of the provision of the declaration, association, bylaws or association rules which have allegedly been violated; and
3. A short and plain statement of the matters asserted by the association.
4. The party against whom the fine may be levied shall have an opportunity to respond, to evidence and to provide written and oral argument on all issues involved and shall have an opportunity to at the hearing to review, challenge and respond to any material considered by the association.

C. Interest charges for nonpayment of assessment are not a late fee, fine or other penalty where such charges are calculated over the actual period of deficiency.

D. Assessment shall be utilized by the association only for common expenses as such expenses are defined in Section 718.115(1), F.S.. Assessments specifically including any accelerated payment of common expenses levied by the association against a unit for nonpayment or late payment of assessments for common expenses, shall be levied against a unit not less frequently than quarterly.

E. The association may with reference to a contract for cable services shall assess unit owner for cable television fee as a common expense.

F. In the event of a unit owner defaults in the payment of assessments, the association's remedies as provided in the condominium documents shall be restricted to those remedies provided by Chapter 718 Florida Statutes, the Condominium Act.



Exhibit "6"

OFF. REC. 18061 PG 1570

PREPARED BY:  
Marta Hernandez-Viera, Esq.  
899 Ponce de Leon Boulevard, Suite 1110  
Coral Gables, Florida 33134

CONSENT OF MORTGAGEE

KNOW ALL MEN BY THESE PRESENTS that Colonial Bank, the holder of a mortgage on the property dated July 17, 1997, recorded July 28, 1997, in Official Records Book 17729, Page 365, of the Public Records of Miami Dade County, Florida and modified by that certain Mortgage Modification and Spreader Agreement recorded on December 10, 1997, in Official Records Book 17899, Page 4552, of the Public Records of Miami Dade County, Florida encumbering the below described real property attached hereto, does hereby consent to the Declaration of Condominium for Royal Poinciana Industrial Park Condominium No. 1, a Condominium, for the purposes of consenting thereto. This consent being attached to the original Declaration of Condominium.

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

NOW, THEREFORE, for good and valuable consideration, Mortgagee agrees and declares as follows:

1. Mortgagee hereby consents to the making, execution and recording of the Declaration.
2. By consenting to the provisions of the Declaration, Mortgagee does not undertake or assume any of the obligations or responsibilities of the Mortgagor or anyone else under the Declaration, as amended, or the Condominium Act, of any owner of a Condominium Unit.
3. The Mortgagee makes no warranty or representation of any kind or nature concerning the Declaration, any of its terms or provisions or the legal sufficiency thereof, and disavows any such warranty or representation as well as any participation in the development of the Condominium, and does not assume and shall not be responsible for any of the obligations or liabilities of the Developer contained in the Declaration or the prospectus issued by the Developer in connection with the promotion of the Condominium. None of the representations contained in the prospectus shall be deemed to have been made by the Mortgagee, nor shall they be construed to create any obligation on the Mortgagee to any person relying thereon. This Consent is limited to the purposes and requirements of Section 718.104(3), Florida Statutes, and does not affect the rights and remedies of the Mortgagee as set forth in the Mortgage except as expressly provided herein.

IN WITNESS WHEREOF, Mortgagee has executed this Consent this 10<sup>th</sup> day of APRIL, 1998.

Signed, sealed and delivered in the presence of:

COLONIAL BANK, an Alabama Corporation

Emma Vasquez  
Signature of Witness

BY: William F. Painter  
Print Name: WILLIAM F. PAINTER  
Print Title: VICE PRESIDENT

Emma Vasquez  
Name of Witness (Please Print)

Madeline Kahalley  
Signature of Witness

(CORPORATE SEAL)

MADELINE KAHALLEY  
Name of Witness (Please Print)

REG: 1806101571

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

BEFORE ME, personally appeared William F. Parker  
Vice President of Colonial Bank, an Alabama  
Corporation, to me well known and known to me to be the person described in and who executed  
the foregoing instrument by due and regular corporate authority; and that said instrument is the  
free act and deed of said corporation.

19 98 WITNESS my hand and official seal on this 9 day of April

Madeline Kahalley  
Signature of Notary Public

Name of Notary Public (Please Print)





SITE PLAN FOR  
**ROYAL POINCIANA INDUSTRIAL PARK** REG: 18061PG1572  
**CONDOMINIUM No 1**

ROYAL POINCIANA INDUSTRIAL PARK CONDOMINIUM No 1

**LEGAL DESCRIPTION:**

THAT PORTION OF TRACT 43, LESS THE EAST 1/2 THEREOF, OF SECTION 15, TOWNSHIP 53 SOUTH, RANGE 40 EAST, FLORIDA FRUIT LANDS CO.'S SUBDIVISION NO.1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 17 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA. LESS THE NORTH 35.00 FEET THEREOF FOR RIGHT-OF-WAY, MORE PARTICULARLY DESCRIBED AS FOLLOW:

COMMENCE AT THE N.W. CORNER OF THE S.1/2 OF THE N.W. 1/4 OF THE S.W. 1/4 OF THE S.W. 1/4 OF SAID SECTION 15; THENCE N89°41'14" E ALONG THE NORTH LINE OF SAID TRACT 43 FOR A DISTANCE OF 308.65 FEET; THENCE S00°18'46"E FOR A DISTANCE OF 35.00 FEET; THENCE N89°41'14"E ALONG A LINE 35.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID TRACT 43 FOR A DISTANCE OF 237.00 FEET TO THE POINT OF BEGINNING; THENCE N89°41'14"E FOR A DISTANCE OF 125.87 FEET; THENCE S01°45'30"E FOR A DISTANCE OF 294.81 FEET; THENCE S89°41'39"W FOR A DISTANCE OF 231.81 FEET; THENCE N00°18'46"W FOR A DISTANCE OF 43.00 FEET; THENCE N89°41'39"E FOR A DISTANCE OF 98.50 FEET; THENCE N00°18'46"W FOR A DISTANCE OF 251.70 FEET TO THE POINT OF BEGINNING. CONTAINING 0.97 ACRES MORE OR LESS.

CLERK NOTE:  
FOR CONDOMINIUM PLANS SEE OFFICIAL  
RECORDS CONDOMINIUM PLANS BK. 303 PAGE 8

HARVEY RUVIN, CLERK,  
CIRCUIT & COUNTY COURTS

BY Jollette F. Spaw D.C.

RECORDED IN OFFICIAL RECORDS BOOK  
OF DADE COUNTY, FLORIDA  
RECORD VERIFIED  
HARVEY RUVIN  
CLERK CIRCUIT COURT

**ROBAYNA**  
AND ASSOCIATES INC.  
ENGINEERS, PLANNERS, SURVEYORS  
5801 N.W. 151st STREET, SUITE 126  
MIAMI LAKES, FL. 33014  
PH (305) 823-9316

SITE PLAN FOR  
ROYAL POINCIANA INDUSTRIAL PARK  
CONDOMINIUM No 1

ROYAL POINCIANA INDUSTRIAL PARK CONDOMINIUM No 1

LEGAL DESCRIPTION:

THAT PORTION OF TRACT 43, LESS THE EAST 1/2 THEREOF, OF SECTION 15, TOWNSHIP 53 SOUTH, RANGE 40 EAST, FLORIDA FRUIT LANDS CO.'S SUBDIVISION NO.1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 17 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, LESS THE NORTH 35.00 FEET THEREOF FOR RIGHT-OF-WAY. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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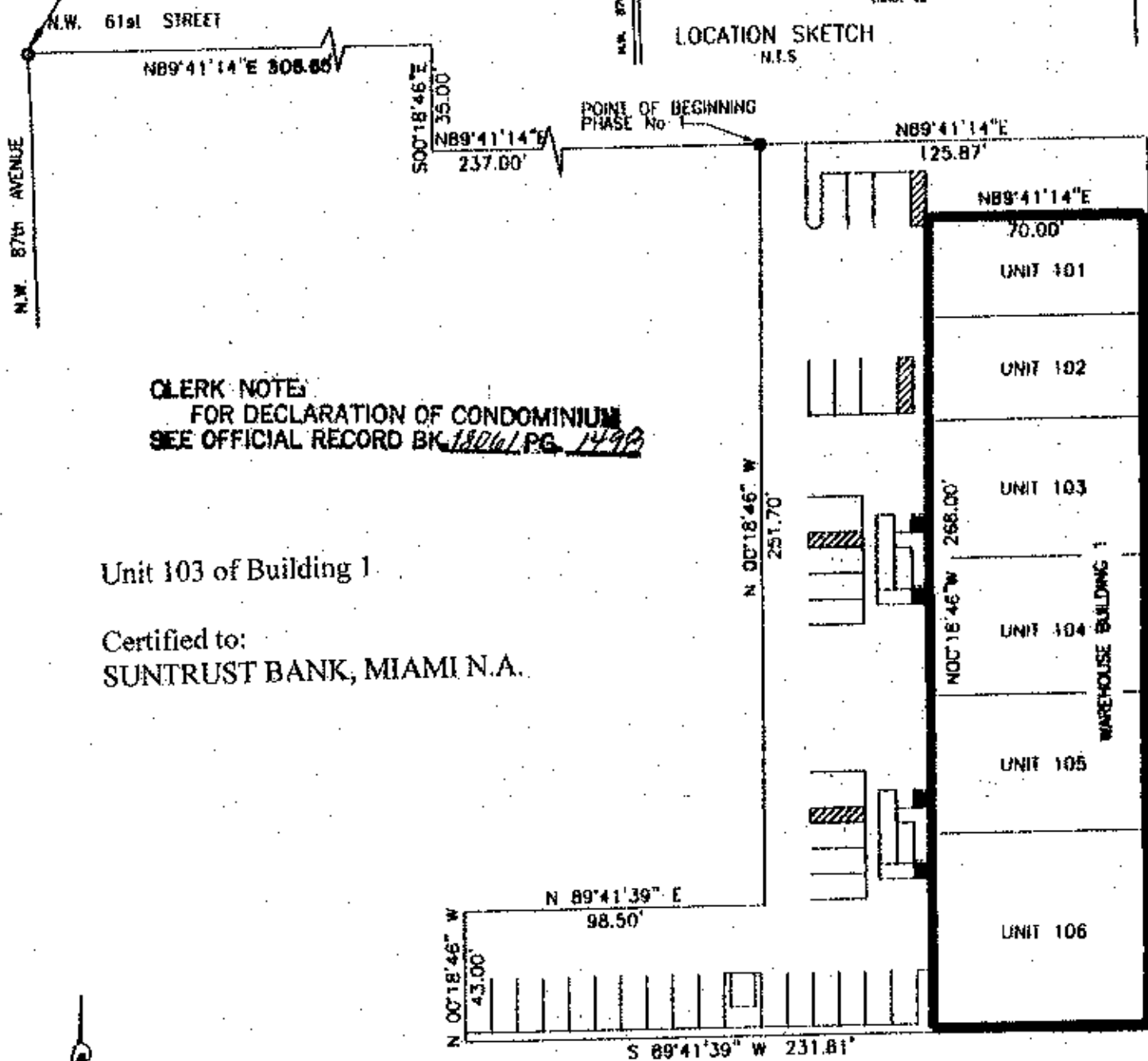
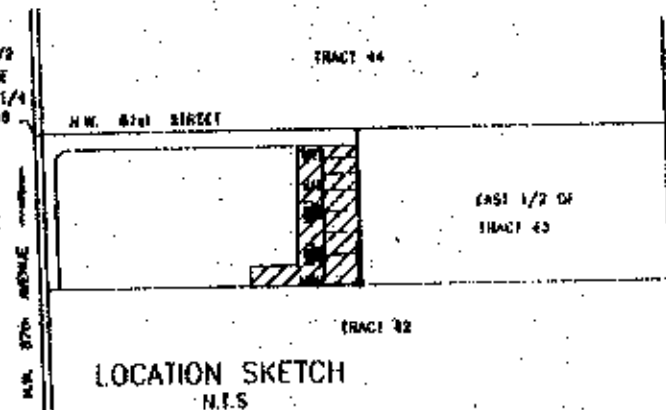
**ROBAYNA**  
AND ASSOCIATES INC.  
ENGINEERS, PLANNERS, SURVEYORS  
5881 N.W. 151st STREET, SUITE 126  
MIAMI LAKES, FL. 33014  
PH (305) 823-9318

# SITE PLAN FOR ROYAL POINCIANA INDUSTRIAL PARK CONDOMINIUM No 1

303-84

N.W. COR. OF THE S 1/2  
OF THE N.W. 1/4 OF THE  
S.W. 1/4 OF THE S.W. 1/4  
OF SEC. 15-53-40

N.W. COR. OF THE S 1/2  
OF THE N.W. 1/4 OF THE  
S.W. 1/4 OF THE S.W. 1/4  
OF SEC. 15-53-40



CLERK NOTE:  
FOR DECLARATION OF CONDOMINIUM  
SEE OFFICIAL RECORD BK 18061 PG 1498

Unit 103 of Building 1

Certified to:  
SUNTRUST BANK, MIAMI N.A.

### SURVEYOR'S CERTIFICATE

THE UNDERSIGNED, A PROFESSIONAL LAND SURVEYOR, DULY AUTHORIZED TO PRACTICE UNDER THE LAWS OF THE STATE OF FLORIDA, HEREBY CERTIFIES THAT:

CONSTRUCTION OF THE IMPROVEMENTS IS SUBSTANTIALLY COMPLETE SO THAT THE MATERIAL TOGETHER WITH THE PROVISIONS OF THE DECLARATION DESCRIBING THE CONDOMINIUM PROPERTY, IS AN ACCURATE REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS AND SO THAT THE IDENTIFICATION, LOCATION, AND DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT CAN BE DETERMINED FROM THESE MATERIALS, INCLUDING CERTIFICATION THAT ALL PLANNED IMPROVEMENTS, INCLUDING, BUT NOT LIMITED TO, LANDSCAPING, UTILITY SERVICES AND ACCESS TO THE UNIT, AND COMMON ELEMENT FACILITIES SERVING THE BUILDING IN WHICH THE UNITS TO BE CONVEYED ARE LOCATED HAVE BEEN SUBSTANTIALLY COMPLETED AND SUCH CERTIFICATE IS RECORDED WITH THE ORIGINAL DECLARATION OR AS AN AMENDMENT TO SUCH DECLARATION.

### LEGEND

COMMON ELEMENT

BUILDING



JOB No 980185  
DATE 03-18-98

**ROBAYNA**  
AND ASSOCIATES INC.  
ENGINEERS, PLANNERS, SURVEYORS  
5081 N.W. 45th STREET, SUITE 128  
MIAMI LAKES, FL. 33074  
PH (305) 823-8316

E. Developer reserves the exclusive right with or without consideration, to assign parking in the parking facilities appurtenant to Condominium Parcel to one or more units. The parking spaces assigned shall be the exclusive use of the respective units and shall be subject to applicable Miami Dade County ordinances, if any. Developer in its sole discretion shall have the right to assign parking spaces to certain Unit Owners. The assigned parking spaces shall be Limited Common Elements appurtenant to the Units to which they are assigned and shall pass with title thereto, regardless of whether or not referenced in the Deed or other instrument of conveyance. The Maintenance, upkeep and expenses of the assigned parking spaces shall be the responsibility of the Association. The Association shall keep a book of which Unit currently owns which parking spaces. Parking spaces may be assigned to any party other than a Unit Owner.

F. Any ramp or similar area shall be a limited common elements of the Unit(s) which has exclusive physical access thereto. The association shall be responsible for the maintenance of the structural and mechanical elements or any such limited common elements and the units owner shall be responsible for the general cleaning and upkeep of the appearance of the area.

#### VI. Appurtenances to Units.

There shall be appurtenant and pass with title to each condominium unit the right, shares and interests provided by the Condominium Act which shall be deemed to include, without limitation, the following:

A. An undivided share in the Common Elements and in the Common Surplus (as that term is elsewhere herein defined). The undivided share in the Common Elements and the Common Surplus of the Condominium appurtenant to each unit is that proportion of the total set