

# Attachment "H"

Hollywood Beach Hotel owners  
Association, Inc. Declarations of Covenants

EXHIBIT "G"

THE HOLLYWOOD BEACH, A RESORT CONDOMINIUM

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE HOLLYWOOD BEACH HOTEL

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PLEASE RETURN TO:  
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GREENSPOON & MARDER, P.A.  
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North Miami, Florida 33181

MM:d 84- 12296  
#60  
6/28/83

THIS INSTRUMENT PREPARED BY:  
MICHAEL MARDER, ESQ.  
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
THE HOLLYWOOD BEACH HOTEL

• • •

This Declaration of Covenants, Conditions and Restrictions (the "Plan") for THE HOLLYWOOD BEACH HOTEL, is made this 15<sup>th</sup> day of July 1983, by ISAAC GAMEL and LOCO TRADE OF FLORIDA, INC., a Florida corporation, as co-partners doing business as HOLLYWOOD INTERNATIONAL, a Florida general partnership (hereinafter referred to as "Developer").

WHEREAS, Developer is the owner in fee simple of certain real property described on Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "property"); and

WHEREAS, Developer intends to establish a plan of development for the property which may include but not necessarily be limited to the creation of Time Share Interests and, commercial activities such as shops, nightclubs, restaurants, hotel accommodations, meeting areas and commercial office space; and

WHEREAS, the Developer intends to develop the property in phases and desires to create pursuant to this Declaration the initial phase of development, which shall consist of the creation of Time Share Interests; and

WHEREAS, Developer deems it advisable to subject the property to certain land use covenants, restrictions, reservations, regulations, burdens, liens and easements all as hereinafter set forth and to create an Association to be known as THE HOLLYWOOD BEACH HOTEL OWNERS ASSOCIATION, INC., (the "Association") the purpose of which shall be to operate, administer, manage, and maintain the initial phase of development created hereby and to perform such other duties as may be assigned to it from time to time pursuant to the terms hereof;

NOW THEREFORE, in consideration of the premises and mutual covenants herein contained, Developer hereby declares that the property shall be owned, held, used, transferred, sold, conveyed, demise and occupied subject to the conditions, covenants, restrictions, easements, reservations, regulations and burdens hereinafter set forth, all of which shall run with the property and which shall be binding on all parties having any right, title or interest in the property so committed, and their heirs, successors and assigns.

ARTICLE I  
DEFINITIONS

The following words and phrases when used in the Plan (unless the context should clearly reflect another meaning) shall have the following meanings:

- A. "Act" means Chapter 711, Florida Statutes, as amended prior to the recordation of these covenants, conditions and restrictions.
- B. "Annual Assessment" means the share of funds required for the payment of Common Expenses which is assessed annually against an Owner.
- C. "Articles" means the Articles of Incorporation of the Association.
- D. "Assigned Unit" means the Unit assigned to an Owner by Developer at the time of conveyance of a Time Share interest which such Owner shall occupy during the Owner's "Assigned Unit Week" (as hereinafter defined).

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E. "Assigned Unit Week" means the Unit Week assigned to an Owner by the Developer at the time of conveyance of a Time Share Interest.

F. "Association" means HOLLYWOOD BEACH HOTEL OWNERS ASSOCIATION, INC., a Florida corporation not-for-profit.

G. "Board" means the Board of Directors of the Association.

H. "By-Laws" means the By-Laws of the Association.

I. "Common Facilities" means those portions of the property not specifically included as part of the Time Share Accommodations which are to be used or enjoyed in common by Owners and the Developer, its successors, assigns, designees and licensees. The Common Facilities shall initially consist of those portions of the property described in Article III(b)(c) however may be expanded from time to time in the sole discretion of the Developer without the consent of the Association or any Owner other than the Developer.

J. "Common Areas" means those portions of the Time Share Accommodations which are not included in the Units and specifically excludes any portion of the Common Facilities.

K. "Common Expenses" means costs incurred in the operation of the Time Share Accommodations and the Common Facilities and includes but is not necessarily limited to:

(1) Costs incurred in the operation, maintenance, repair or replacement of the Units, any portion of the Time Share Accommodations, the Common Areas, the Common Facilities, costs of carrying out the powers and duties of the Association, costs of fire and extended coverage insurance; and

(2) Any other expenses designated as "Common Expenses" by the Association in its sole discretion.

L. "Developer" means HOLLYWOOD INTERNATIONAL, a Florida general partnership, its successors and assigns. An "Owner" (as hereinafter defined) shall not solely by reason of the purchase of a "Time Share Interest" (as hereinafter defined) be deemed a grantee, successor or assign of Developer's rights or obligations under the Plan unless such Owner is specifically so designated as a successor or assign of Developer's rights or obligations in the respective instrument of conveyance or other instruments executed by Developer.

M. "Institutional Mortgagee" means a bank, a federal or state savings and loan association, an insurance company, a mortgage company, a real estate investment or business trust, a pension fund, an agency of the United States government, any other lender generally recognized as an institutional type lender owning and holding a mortgage encumbering a Time Share Interest and includes Developer or its assigns with respect to mortgages which it holds encumbering a Time Share Interest.

N. "Managing Entity" means the entity, if any, employed by the Association to operate and manage the Time Share Accommodations.

O. "Owner" means a person to whom the Developer has conveyed or records a Time Share Interest.

P. "Plan" means this Declaration of Covenants, Conditions and Restrictions, as amended from time to time.

Q. "Retained Property" means all portions of the property not specifically included as part of the Time Share Accommodations and Common Facilities. Except as otherwise specifically provided for herein, the Developer, its successors and assigns shall have the exclusive right to use, occupy and enjoy the Retained Property including the right to sell, assign, and/or transfer such exclusive occupancy and/or use rights and to charge fees to Owners of Time Share Accommodations for use and access thereto. The Developer, its successors and assigns shall have the right to manage and control the Retained Property and to make any legal use thereof which may include but not necessarily be limited to one or more shops, nightclubs, restaurants, meeting rooms, hotel accommodations and commercial office space.

R. "Rules and Regulations" means the Rules and Regulations of the Association.

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S. "Service Period" means that period of time designated by the Association in its sole discretion, commencing at the end of each Unit Week and ending at the beginning of the next Unit Week to be used by the Association to clean, service and maintain a Unit and the Common Areas. The Service Period shall initially run for five (5) hours from 10:00 a.m. until 3:00 p.m. however it may be changed by the Association in its sole discretion provided however that the Service Period shall not be less than three (3) hours nor more than seven (7) hours.

T. "Special Assessment" means a share of funds required for the payment of Common Expenses which from time to time is assessed against an Owner, in addition to the Annual Assessment.

U. "Time Share Accommodations" means that portion of the property including all improvements thereon and therein including the common areas and all furniture, furnishings, and fixtures, reserved for the exclusive use of owners of one or more Time Share Interests.

V. "Time Share Interest" means the Ownership in fee simple of an undivided interest as a tenant in common in the property with the Developer and Owners of other Time Share Interests together with the right to use and occupy an assigned unit during an assigned unit week in the Time Share Accommodations. The Owner of a Time Share Interest shall not have the right to use and occupy any portion of the property other than the assigned Unit during the assigned Unit Week in the Time Share Accommodations and those portions of the Common Facilities designated for use by Owners except as otherwise set forth herein.

W. "Unit" means a part of the Time Share Accommodations which is subject to exclusive possession.

X. "Unit Week" means a period of use of a Unit which shall consist of not less than seven (7) days. Unit Weeks are computed as follows:

Unit Week No. 1 is the Seven (7) Days commencing on the first Saturday in each year.

Unit Week No. 2 is the Seven (7) Days succeeding.

Additional Unit Weeks, up to and including Unit Week No. 51, are computed in a like manner.

Unit Week No. 52 contains the Seven (7) Days succeeding the end of Unit Week No. 51, without regard to the month or year, plus any excess days not otherwise assigned. Unit Weeks run from 12:00 p.m. on the first Saturday of the Unit Week to 12:00 p.m. on the last Saturday of the Unit Week.

#### ARTICLE II

#### DESCRIPTION OF IMPROVEMENTS AND TIME SHARING PLAN

##### A. Plan.

The Developer shall convey to each Owner by Warranty Deed the ownership in fee simple of an undivided interest in the property previously referenced as Exhibit "A" attached hereto, as a tenant in common with other Owners, including the Developer. Each Time Share Interest created with respect to Phase (A) as described in Article II(B) hereof shall consist of an undivided .0048904% interest in the property. The aggregate of all Time Share Interests created in the Time Share Accommodations with respect to Phase (A) will equal an undivided 3.268293% interest in the property. An Owner may be the Owner of more than one Time Share Interest. The Deed of conveyance by Developer of a Time Share Interest shall designate a Unit which the Owner shall occupy and a Unit Week during which the Owner shall occupy his Unit. The Unit and the Unit Week which is designated for use by a particular Owner shall be such Owner's assigned Unit and assigned Unit Week. Such assigned Unit and assigned Unit Week shall be selected by the Owner. The Owner shall be entitled to the exclusive use of his assigned Unit and to no other Unit and to the non-exclusive use of the common areas and Common Facilities in accordance with the terms hereof. An Owner

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shall not have the right to the use of a Unit except during such Owner's assigned Unit Week, however, this shall not restrict the use by an Owner of the common areas or the Common Facilities at other times of the year, subject to the rules and regulations adopted from time to time by the Association. The Owner of a Time Share Interest shall not have any right to the use of any portion of the property not specifically designated for use by Owners of Time Share Interests and specifically shall have no right whatsoever directly or indirectly to use, enjoy, or occupy for any purpose any portion of the Retained Property except upon such terms and conditions as may be permitted by the Developer, its successors and assigns. The Developer reserves the right exclusively to make any legal use of the Retained Property which the Developer may in its sole discretion deem appropriate and may in its sole discretion sell, lease, transfer, or assign its ownership and use rights thereof and may charge fees to Owners of Time Share Interests in Time Share Accommodations for use thereof. No sale, lease, assignment, or transfer of the Developer's exclusive rights to the Retained Property shall effect the ownership and use rights of the Owners of Time Share Interests in the Time Share Accommodation and/or Common Facilities; and, any purchaser, lessee, or transferee of the Developer's interest of the Retained Property shall be subject to all of the terms, conditions, and provisions of this Plan.

**B. Description of Property and Time Share Accommodations.**

1. A survey of the Property upon which the Time Share Accommodations, the Common Facilities, and Retained Properties are located is attached hereto and made a part hereof as Exhibit "B". The plot plan, site plan and graphic description of improvements of the Property is attached hereto and made a part hereof as Composite Exhibit "C" and depicts thereon the existing phase of development and all subsequent proposed phases as well as the Common Areas, Common Facilities, Retained Properties, and those portions of the Property excluded from the Time Share Plan. The initial phase of development whereby Time Share Interests are being created shall be designated Phase 1(a) and shall consist of thirty-eight (38) Units located upon the sixth floor of the Property designated as Parcel A on Exhibit "C" previously referenced which parcel also contains the Common Facilities, Common Areas and Retained Properties. A graphic description of the sixth floor and the Units located thereon is attached hereto and made a part hereof as Exhibit "C" Sheet 6 and Exhibit "C" Sheet 6(a). Phase 1(a) of the Time Share Accommodations consist of twenty-four (24) one bedroom/one bath Units and fourteen (14) studios. Each Unit shall contain a kitchen and be fully furnished.

**C. Description of Common Facilities.**

1. The Common Facilities shall initially consist of the lower lobby and elevators (excluding all service elevators) and all electrical, water, sewer, garbage disposal, gas, plumbing, air conditioning, all other mechanical equipment and systems serving the building located upon the Property; and, all structural components, the roof, and all exterior portions of the building and the parking areas and landscaping located thereon, together with all areas designated as Common Facilities on Composite Exhibit "C". It is to be specifically noted that certain areas depicted on Composite Exhibit "C" designated as Common Facilities are to be included as part of proposed future phases. Except as otherwise specifically provided herein, until such time as such proposed future "Common Facilities" are added by the Developer such portions of the Property shall be deemed Retained Property subject to the exclusive control, use and benefit of the Developer, its successors, assigns and licensees.

2. While each Owner shall acquire an undivided interest in the Property as a tenant in common, the Developer, its successors and assigns retains the right to use such facilities on a mutual non-exclusive basis. All Common Facilities shall be managed by the Association except as otherwise provided for herein. The Developer may, however is not obligated to, add additional properties and improvements to the Common Facilities, in its sole discretion, without the consent of the Association or any Owner. If, as and when the Developer desires to add additional properties and improvements to the Common Facilities, the Developer may do so by execution of an amendment to this Declaration (which amendment need not be joined into by the Association or any Owner) wherein such amendment designates additional portions of the Property to be included as part of the Common Facilities together with a revised survey, site plan and graphic description of improvements depicting the additional Common Facilities added pursuant to such amendment.

3. The Developer, its successors, assigns, licensees and designees, and the Owners of Time Share Interests shall have the joint and mutual use of the Common Facilities subject to the exclusive right of the Association to regulate and control the Common Facilities for the health, safety and welfare of all Owners. The Association is hereby empowered to adopt from time to time such rules and regulations as may

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be necessary to accomplish such purpose it being intended that the authority of the Association to control the Common Facilities and regulate the use thereof be construed in the broadest sense. Such authority shall include but not be necessarily limited to the authority to adopt rules and regulations concerning the use of the parking areas including rules requiring valet parking and fees therefor in addition to regular maintenance fees.

D. Beach Club Membership.

In addition to the "Common Facilities" there is a club membership associated with the Plan. The Developer is providing beach club memberships such facilities to be exclusively owned and managed by the Developer. Use rights and fees to be charged in connection with such club membership shall be governed in accordance with a Beach Club Membership Agreement which has or will be entered into between the Association and the Developer a copy of which is attached hereto and made a part hereof as Exhibit "D" and incorporated herein by reference. The Developer reserves the right in its sole discretion to grant additional use rights to the beach club facilities to Owners in subsequent phases of Time Share Accommodations and to persons, firms and entities which the Developer in its sole discretion desires to grant use rights to upon such terms and conditions as the Developer may deem appropriate. The beach club and all facilities herein are a portion of the Developer's Retained Property and all ownership and management thereof is exclusively reserved to the benefit of the Developer.

E. Additional Phased Development.

1. The Developer, its successors, and assigns may improve further portions of the Retained Property and by amendment to this Declaration create and submit to the terms of this Declaration additional Time Share Accommodations in phases and may create and submit additional Common Facilities. In no event, shall the total number of Units to be submitted as a part of such Time Share Accommodations exceed three hundred twenty-seven (327). The initial phase of development of the thirty-eight (38) Units submitted hereby together with the Common Facilities described herein and previously referenced have been and are designated as Phase (Ia). The number of phases, the number of proposed Units within each phase, the Unit type to be included in subsequent phases and the total aggregate undivided interest in the property with respect to each phase are described on Exhibit "E" attached hereto and made a part hereof.

2. Notwithstanding anything contained herein to the contrary, the Developer acknowledges that the plans have been filed with the appropriate agency and the county in which the property is located, and has agreed to substantially comply with the same for future construction, if, as and when same takes place. Each Owner of a Time Share Interest acknowledges that the Developer may desire to apply at some time in the future to modify the aforesaid plans and all Owners of Time Share Interests in Time Share Accommodations hereby consent to such application for modification by the Developer from time to time in the future, provided such application for modification shall not change the percentage ownership interest of any Owner in the Time Share Accommodations.

3. It is to be expressly understood that the Developer is not obligated to submit additional phases to the terms hereof and may submit one or more phases without being obligated to submit other phases. In any event, any phases which are added in the future in the sole discretion of the Developer shall be located upon the property described on Exhibit "A".

4. In the event one or more additional phases are added, the submission of such additional phases shall not alter the percentage of ownership of any Owner of a Time Share Interest in a previous phase. The submission of additional phases shall merely operate as the submission of the Developer's Retained Property and sale of additional undivided percentage interests in the property.

5. In the event no additional phases or Common Facilities are added, there shall be no Common Facilities and Time Share Accommodations except those specifically created hereby. In the event additional phases are added in the sole discretion of the Developer, the Owners of Time Share Interests in such phases shall have the right to use and occupy all Common Facilities on a non-exclusive basis including those Common Facilities initially created hereby subject to the payment of applicable maintenance and use fees therefor.

6. The Developer reserves in its sole discretion the right to add additional Common Facilities without being obligated to add additional phases in

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conjunction therewith. Such additional portions of the property may be added without the consent of the Association or any Owner. As previously indicated Composite Exhibit "C" graphically describes those portions of the property including existing and proposed Time Share Accommodations, Common Facilities, and Retained Properties. Notwithstanding anything depicted on Composite Exhibit "C", the Developer reserves the right in its sole discretion to submit portions of the property as additional Common Facilities other than those portions of the property designated as proposed future Common Facilities. Specifically, the Developer may however is not obligated to submit as additional Common Facilities or Time Share Accommodations those portions of the property designated as Retained Properties.

7. Notwithstanding anything contained herein to the contrary, the number of Units and Unit types may vary from the Developer's proposed plan of phase development as set forth on Exhibit "E". The Developer in its sole discretion reserves the right to increase or decrease the number of Units to be included within each phase and to modify the Unit type. The Developer also reserves the right to increase or decrease said number and individual percentage of Time Share Interests conveyed however the aggregate undivided percentage interest of each phase shall not vary from that described on Exhibit "E".

8. As referenced on Exhibit "C", a swimming pool, and pool deck area (hereinafter referred to as the "SWIMMING POOL") are to be located on Phase II(b), if, as and when Phase II(b) is submitted as part of a phase to the development. Such facility is designated as Parcel B on Exhibit "C" previously referenced and is described on Exhibit "F" attached hereto and made a part hereof. It is specifically noted that such property is not a part of the property referenced on Exhibit "A" (Parcel A) and no Owner of a Time Share Interest shall gain any ownership rights therein. The Developer shall retain exclusive control and ownership of such facility subject however to the right of each Owner of a Time Share Interest the use thereof subject to payment of applicable fees. If, as and when the SWIMMING POOL is added as part of Phase II(b) such facility shall be deemed an addition to the Beach Club Facilities and shall be subject to all terms, conditions and provisions therefor as set forth in Exhibit "D".

9. The Developer may be required pursuant to the applicable requirements of local governmental authorities to provide additional parking facilities if, as and when additional phases are added to the development. Such additional parking facilities may include the construction of a parking garage upon the property and may also include the dedication of adjacent parcels of property as depicted on Exhibit "C". Attached hereto and made a part hereof as Exhibit "G" are descriptions of additional parcels of property which may be dedicated in the future as parking facilities. If, as and when such additional parcels are added as may be required by governmental authority, such parcels shall be deemed additional Common Facilities and subject to all terms and conditions contained herein with respect to management, operation, control and maintenance. Notwithstanding anything contained herein to the contrary, the Developer shall not be obligated to submit such additional parcels except as may be specifically required by local governmental authority.

10. As previously noted, additional parking facilities may include the construction of a parking garage (proposed parking garage No. 1 or as an alternative site proposed parking garage No. 2 as depicted on Composite Exhibit "C"). If, as and when such additional facility is constructed, it shall be constructed at the sole cost and expense of the Developer, and when so constructed shall be deemed an additional Common Facility for all purposes subject to all terms, conditions and provisions set forth herein with respect to management, maintenance and operation of the Common Facilities.

11. If, as, and when additional Common Facilities are submitted, the Developer reserves the right to grant use rights to third persons, firms, and entities other than the Owners of Time Share Interests upon such terms and conditions as the Developer may deem appropriate. Such use rights shall be on a non-exclusive basis with the use rights of Owners of Time Share Interests in Time Share Accommodations as provided for herein.

12. Upon the submission of Phase I(a), which as previously referenced is the initial phase of the development, membership in the Association shall consist solely of the Owners of Time Share Interests in the Time Share Accommodations located in such initial phase and the Developer. In the event the Developer makes and an election to submit one or more additional phases, membership in the Association shall be expanded to include the Owners of Time Share Interests in such additional Time Share Accommodations. Upon the submission of additional phases, the number of membership interests in the Association shall be expanded to include the additional Time Share Interests submitted and upon submission thereof, each Owner of a Time

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Share interest in such additional phase shall have membership status in the Association in conjunction with the Owners of Time Share Interests in previous phases. The membership interest of each Owner in the Association shall equal such Owner's undivided interest in the property.

13. While the Developers plan of phase development as set forth on Exhibit "E" previously referenced is set forth in numerical sequence, the Developer shall not be obligated to submit any phase in the order designated, however may submit one or more phases in any sequence which the Developer in its sole discretion may elect.

14. Amendments adding additional phases shall not require the consent or execution of such amendment by any person, firm or entity other than the Developer including but not limited to Owners of Time Share Interests, the Association, or mortgagees. The election by the Developer to create and submit one or more additional phases shall be evidenced by a Notice of Election describing such phase and specifying that such phase is subject to all of the terms and conditions of this Declaration as same may be amended from time to time.

15. All Owners of Time Share Interests including Owners of Time Share Interests in additional phases shall with respect to all matters on which a vote by Owners is required or permitted to be taken pursuant to the Plan, the Articles or By-Laws, have a vote equal to the percentage ownership interest in the property. The total membership of the Association shall be comprised of all Owners of Time Share Interests and the Developer with respect to its ownership of Time Share Interests and the Retained Property.

16. Upon submission of additional phases, the assessments to be charged to each Owner of a Time Share Interest shall automatically be adjusted to provide for the additional phases so added.

E. Creation of Association for Management of Retained Property.

Notwithstanding anything contained herein to the contrary, the Developer may, in its sole discretion, create an Association solely for the purposes of managing the Developer's interest in the Retained Property. Such Association may be empowered at the election of the Developer to operate, manage, or administer commercial areas located within the building other than the areas which are deemed to be Common Facilities and Time Share Accommodations. Such Association may also be designated by the Developer to operate and manage the beach club facility.

ARTICLE III

THE ASSOCIATION

A. Duties - Organization.

The Association is a non-profit Florida corporation, which corporation shall be the governing body for the operation of all Time Share Accommodations and the Common Facilities. Neither the officers nor the directors shall be required to be members of the Association. The Board of Directors of the Association, and such officers as the Board may elect or appoint, shall conduct the affairs of the Association in accordance with the Articles and the By-Laws, as same may be amended from time to time. The initial Board shall consist of three (3) members, however, may be increased from time to time in accordance with the provisions of the Articles and By-Laws to include no more than seven (7) members. The Developer reserves the right to appoint all members to the Board until January 1, 1997. During such period of time, Owners shall not have the right to elect members to the Board except as may be otherwise permitted in the sole discretion of the Developer. Thereafter, the Developer reserves the right to appoint a majority of the members to the Board only in the event the Developer retains at least a fifty (50%) percent undivided interest in the property. The Developer reserves the right to appoint no less than one (1) member to the Board so long as the Developer retains any ownership interest in the property. A copy of the Articles of Incorporation of the Association are attached hereto and made a part hereof as Exhibit "H" and the By-Laws of the Association are attached hereto as Exhibit "I".

B. Membership.

1. Qualifications: Each Owner of a Time Share Interest shall be a member of the Association. The Developer, its successors, or assigns shall be a member with respect to its undivided percentage interest in the property including

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unsold Time Share Interests in Time Share Accommodations created hereby and the Retained Property.

2. Transfer of Membership: The Association membership of each Owner (excluding the Developer, its successors, and assigns) shall be appurtenant to the Time Share Interest giving rise to such membership and shall not be assigned, transferred, pledged, conveyed or alienated in any way, except upon the transfer of any title to said Time Share Interests, and then only to the transferee of title to such interests. Any attempt to make a prohibited transfer shall be void. Any transfer of title to such Time Share Interests shall operate automatically to transfer the membership in the Association to the new Owner thereof. The membership of the Developer, its successors, and assigns in the Association shall be contingent upon the ownership of an undivided percentage interest in the property. Any transfer by the Developer shall vest ownership and membership rights of such transferee in the Association subject to the terms hereof.

C. Voting.

Subject to the provisions of the Articles and By-Laws of the Association applicable thereto, each Owner or Owners of a Time Share Interest including the Developer with respect to its ownership of unsold Time Share Interests and its ownership in the Retained Property, shall have a percentage vote in the Association equal to its percentage of ownership. Unless otherwise provided for in this Plan, the Articles and/or the By-Laws, with respect to any issue required or permitted to be voted on, the casting of votes by fifty one (51%) percent of the total vote of the Owners (including the Developer with respect to its undivided interest in the Retained Property) present at the meeting called, (provided a quorum is present), shall be sufficient to determine any issue voted upon. All voting, election of directors and expansion of the board shall be in accordance with the provisions of the Articles and/or By-Laws.

D. Duties of the Association.

1. Maintenance and Management of Time Share Accommodations and Common Facilities: The Association shall be responsible for the maintenance, repair and replacement of the Time Share Accommodations, and all Common Facilities. The Association may enter into an agreement with such firms or companies as it may determine to provide certain services and/or maintenance for and on behalf of the Owners whereby the maintenance and services are provided on a regularly scheduled basis for any maintenance and service as the Association deems advisable and for such period of time and on such basis as it determines. Such agreement shall be entered into by the Association on behalf of all members of the Association. The fee for such services shall be deemed a Common Expense and included in the regular maintenance assessment.

2. Interior Color Scheme: In addition, the Association shall determine the color scheme of all buildings located on the property and all exterior and interior color schemes for the Time Share Accommodations and Common Facilities and shall be responsible for the maintenance thereof. The Association shall determine the interior color scheme, decor and furnishings of each Unit in the Time Share Accommodations, as well as the proper time for redecorating and replacements thereof. In addition, the Association shall determine the color scheme of all buildings located on the property and all exterior and the interior color schemes for the Common Areas, and Common Facilities and shall be responsible for the maintenance thereof.

3. Other Utilities: The Association shall acquire water, sewer, garbage disposal, electrical, telephone, gas and other necessary utility services for the Time Share Accommodations and Common Facilities.

4. Insurance: The Association shall obtain, maintain and enforce the policies of insurance as required herein.

5. Rules and Regulations: The Association shall make, establish, promulgate, amend and repeal Association rules as the Association may from time to time deem advisable, in its sole discretion.

6. Taxes and Assessments: The Association shall collect all taxes and assessments from its members in accordance with the Act and all applicable laws.

7. Enforcement of Restrictions and Rules: The Association shall perform such other acts, whether or not expressly authorized by the Plan, as may be

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reasonably necessary to enforce any of the provisions of the Plan, the Articles, By-Laws or Association rules and regulations.

8. Compliance with Act: The Association shall perform all duties of a managing entity as required by the Act. The managing entity shall act in the capacity of a fiduciary to the Owners. In addition to such other requirements as are set forth in the Act, the Association shall:

(a) Provide, each year, to all Owners including the Developer with respect to its undivided percentage interest in the property an itemized Annual Budget which shall include all receipts and expenditures;

(b) Maintain all books and records concerning the Time Share Accommodations and Common Facilities. All such books and records shall be reasonably available for inspection by any Owner or the authorized agent of any Owner. In addition, any Owner shall have the right to demand and receive from the Association, upon reasonable notice, a complete list of the names and addresses of all other Owners of Time Share Accommodations upon the payment of a reasonable fee for reproduction costs.

(c) Arrange for an annual independent audit to be conducted by a Certified Public Accountant in accordance with the standards of the Accounting Standards Board of the American Institute of Certified Public Accountants of all books and records of the Association.

(d) Make available for inspection by the Division the books and records of the Association.

(d) Schedule the occupancy of Time Share Units in the Time Share Accommodations.

(e) Perform any other functions and duties which are necessary and proper to maintain the Time Share Accommodations and the Common Facilities.

F. Powers and Authorities of the Association.

In addition to such other powers as may be set forth in the Plan, the Articles, or the By-Laws, the Association shall have all the powers of a non-profit corporation organized under the laws of the State of Florida, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, By-Laws or this Plan. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under this Plan, the Articles and the By-Laws, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association, including, without limitation:

1. Assessments: To levy assessments on the Owners of Time Share Interests and the Developer, its successors, and assigns with respect to its undivided percentage interest in the property, and to enforce payment of such assessments.

2. Right of Entry and Enforcement: To enter upon any portion of the Time Share Accommodations, and/or Common Facilities for the purpose of enforcing by peaceful means any other provisions of this Plan or for the purpose of maintaining or repairing any such area if, for any reason whatsoever, maintenance is required thereto.

3. Easements and Rights-of-Way: To grant and convey to the Developer or any third party easements and rights-of-way in, on, over or under any portion of the Common Facilities and Common Areas for the purpose of constructing, erecting, operating or maintaining therein, thereon, or thereunder:

(a) Overhead or underground lines, cables, wires, conduits or other devices for the transmission of electricity for lighting, heating, power, telephone or other purposes;

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(b) Public sewers, storm water drains, pipes, water systems, sprinkler systems, water, heating and gas lines or pipes; and, similar public or quasi-public improvements or facilities.

4. Transfer, Dedication and Encumbrance: To sell, transfer or encumber all or any portion of the Common Facilities and Common Areas including the private streets, if any, and any other portion of the property owned by the Association, to a person, firm or entity, whether public or private, and the right of the Association to dedicate or transfer all or any portion of the property owned by the Association to any public agency, authority or Utility for the purposes and subject to such conditions as may be agreed to by the members of the Association. No such sale, transfer, encumbrance or dedication shall be effective unless an instrument signed by the members entitled to cast seventy five (75%) percent of the votes of the members of the Association has been recorded, agreeing to such sale, transfer, encumbrance or dedication, unless written notice of the proposed action is sent to every member not less than thirty (30) days nor more than sixty (60) days in advance. Notwithstanding anything contained herein to the contrary, until the Developer has transferred control of the Association, as provided elsewhere herein, the Association shall be permitted to sell, transfer, encumber or dedicate such portion of the Common Facilities and/or Common Areas located on the property as, in its sole discretion, it shall deem appropriate and in the best interests of the development without the consent or vote of the members of the Association.

5. Employment of Agents: To employ the services of any person or corporation as Manager, or other employees, to, as may be directed by the Board, manage, conduct and perform the business, obligations and duties of the Association, and to enter into contracts for such purpose. Such agent shall have the right to ingress and egress over such portions of the Common Facilities and Common Areas and the Time Share Accommodations as is necessary for the performance of such business, duties and obligations.

6. Employment of Professional Advisors: To employ professional council and advise such persons, firms or corporations such as, but not limited to, landscape architects, recreation experts, planners, lawyers and accountants.

7. Create Classes of Service and Make Appropriate Charges: To create, in its sole discretion, various classes of service and to make appropriate charges therefor for the users thereof, including, but not limited to, reasonable admission and other fees for the use of any recreational facilities situated on the Common Facilities and to avail itself of any rights granted by law without being required to render such services to those of its members who do not assent to the said charges and to such other rules and regulations as the Board deems proper. In addition, the Board shall have the right to discontinue any service on nonpayment or to eliminate such services for which there is no demand therefor or adequate funds to maintain the same out of charges.

8. Miscellaneous: To sue and be sued; pay taxes; make and enter into contracts; and insure, enter into leases or concessions and to pass good and marketable title to the Common Facilities; dedicate or transfer all or any part of the Common Areas or Common Facilities to a public agency, authority or utility for such purposes and subject to such conditions as may be reasonable; make and execute any and all proper Affidavits for various purposes; compromise any action without leave of Court; insure its own liability for claims against it and against its officers, directors, employees and contractors.

9. Three (3) Year Limitation: Notwithstanding anything to the contrary herein, the Developer and its agents are precluded from entering into any contract which binds the Association or its Board for a period in excess of three (3) years, unless reasonable cancellation provisions are included in any such contract.

10. Personal Liability: No member of the Board or any officer of the Association or the Developer or the Manager shall be personally liable to any Owner or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board, the Manager or any other representative or employee of the Association, the Developer or any officer of the Association, provided that such person, firm or entity has, upon the basis of such information as may be possessed by him, acted in good faith, without willful or intentional misconduct.

11. Books and Records: To keep separate books and records in accordance with the Articles and/or By-Laws for the Time Share Accommodations and the Common Facilities.

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12. Management of Retained Property: Notwithstanding anything contained herein to the contrary, the Association shall have no authority to act in connection with nor manage any portion of the property designated as Retained Property, and the Developer, its successors and assigns shall have exclusive control thereof.

13. Affirmative Covenant to Pay Expenses: There shall be included in the Budget of the Time Share Accommodations an assessment for management and maintenance of the Common Facilities. There shall also be a separate budgeted amount for Beach Club Membership pursuant to the Beach Club Membership Agreement attached hereto as Exhibit "D". With respect to the Common Facilities (other than Club Membership in the Beach Club) the Owners of Time Share Interests shall be assessed with respect to the total expenses for maintenance and management of the Common Facilities in accordance with the undivided percentage interest of each Owner in the property.

#### ARTICLE IV

#### ASSESSMENTS FOR COMMON EXPENSES; ESTABLISHMENT OF LIENS

In order to (1) fulfill the covenants herein contained in the Plan; (2) to preserve the Units, Common Areas, Common Facilities for the recreation, safety, welfare and benefit of Owners, their licensees, invitees, guests, family members and lessees; and (3) to provide for improvement, maintenance and preservation of the Units, Common Areas, Common Facilities and the services and amenities provided for herein, there is hereby imposed upon the Association and the Owners, the affirmative covenant and obligation to pay the Common Expenses as defined and more particularly set forth in Article VI of the Plan. The Association, by its Board, shall prepare and adopt in accordance with the By-Laws an annual Budget setting forth the Common Expenses for the operation and management of the Time Share Accommodations and the Common Facilities. The Association shall establish a separate Budget for the operation and management of the Common Facilities and the operation and management of the Time Share Accommodations. There shall be included in the Budget of the Time Share Accommodation an assessment for management and maintenance of the Common Facilities. There shall also be a separate budgeted amount for Beach Club Membership pursuant to the Beach Club Membership Agreement attached hereto. With respect to the Time Share Accommodations and Common Facilities (other than club membership in the Beach Club) the Owners of Time Share Interests shall be assessed with respect to the total expenses for maintenance and management of the Time Share Accommodations and Common Facilities in accordance with the undivided percentage interest of each Owner in the property.

The Association shall assess each Owner (including the Developer) its share of the common expenses (such assessment to include its share of expenses for the Common Facilities (as determined herein), which shares shall be assessed annually as an annual assessment, and the Association shall collect said sums. Annual Assessments shall be payable in advance of the year in which such Annual Assessments apply or upon such other date as may be from time to time determined by the Board. Notwithstanding the foregoing, each Owner shall be obligated to pay such Special Assessments as shall be levied in addition to the Annual Assessments by the Board against his or her Time Share Interest, either as a result of (a) extraordinary items of expense; (b) nonrecurring capital expenditures; (c) the failure or refusal of other Owners to pay their Annual or Special Assessments; (d) any sums expended by the Association for the repair or replacement of a Unit, Common Areas, or Common Facilities damaged by an Owner or its family members or guests; (e) any sums expended by the Association for the removal of any addition or alteration to a Unit, Common Areas or Common Facilities made by an Owner in violation of the provisions of the Plan, the Articles, By-Laws and/or Rules and Regulations of the Association; or (f) such other reason or basis determined by the Board in its sole discretion. Notwithstanding anything contained herein to the contrary, the Owner of Time Share Interest other than the Developer shall not be assessed for any expenditures relating to the lower lobby area so long as the Developer retains control thereof for sales purposes.

#### B. Lien.

The record Owner(s) of each Time Share Interest in any Time Share Accommodations and the Developer with respect to its undivided interest in the property shall be personally liable, jointly and severally to the Association for the payment of as "Assessments" levied by the Association against their Time Share Interest and/or undivided interest in the property and for all costs of collecting such Assessments, including interest, delinquent assessments and attorneys' fees at all trial and appellate levels. The Assessments, together with interest thereon, and the costs of collection, including reasonable attorneys' fees at all trial and appellate levels as herein provided

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are hereby declared to be a charge upon the Time Share Interest and with respect to the Developer, its successors, and assigns a lien on its undivided percentage interest in the property and shall be a continuing lien upon such interest. Each Assessment against a Time Share Interest, and with respect to the Developer its undivided interest in the property, together with interest thereon at the highest rate allowed by law and the cost of collection thereon, shall be the personal obligation of the person, persons or entities owning such interest so assessed. Said lien shall be effective only from and after the date of recordation among the Public Records of Broward County, Florida, of a written, acknowledged statement by the Association setting forth the amount due to the Association as of the date the statement is signed. Upon full payment of all sums secured by that lien, the party making payment shall be entitled to a recordable satisfaction of the statement of lien. An Institutional Mortgagee acquiring title to a Time Share Interest or to the undivided percentage interest in the property of the Developer as a result of foreclosure of such mortgage or deed in lieu of foreclosure shall not be liable for the share of Common Expenses or other expenses chargeable to the former Owner which became due prior to such acquisition of title unless secured by a claim of lien recorded prior to the recording of the foreclosed mortgage.

Notwithstanding anything contained herein to the contrary, any lien against a Time Share Interest shall encumber only the Assigned Unit during the Assigned Unit Week associated with said Time Share Interest and shall not encumber the property, real or personal of any other Owner including the Developer.

#### ARTICLE V

#### REMEDIES OF ENFORCEMENT

##### A. Enforcement of Plan.

1. The covenants and restrictions herein contained may be enforced by Developer or the Association in any judicial proceeding seeking any relief recognizable at law or in equity, including damages, injunction, and other mandatory relief against any person, persons, firm or entity violating or attempting to violate any covenant or restriction or to enforce any lien created by the Developer pursuant hereto. The failure either by the Developer or the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so hereafter. The prevailing party in any such litigation shall be entitled to reasonable attorneys' fees and court costs, including costs and fees at all trial and appellate levels. All such costs incurred by Developer or Association shall be a continuing lien upon the Time Share Interest of the defaulting Owner and such lien may be enforced in the manner set forth in paragraph (B) of this Article V.

2. All rights, remedies or relief of whatsoever nature or kind provided herein in favor of Developer or the Association shall be cumulative and non-exclusive and none shall exclude, jointly or severally, any other right, remedy or relief permitted by law or otherwise available to Developer or the Association.

3. In addition to any other remedies which Developer or Association may have, in the event an Owner shall be in default of any of the provisions of the Plan, the Articles, the By-Laws or the Rules and Regulations, the Developer and the Association may levy a fine against such Owner which shall continue until such default shall be remedied by the defaulting Owner. Any such fine shall be a continuing lien on the Time Share Interest of the defaulting Owner and may be enforced in the manner set forth in Paragraph B of this Article V.

##### B. Enforcement of Lien Rights and Other Remedies in the Event of Non-payment of Assessments.

1. In the event an Owner shall fail to pay any Assessment, then the Association may file an action at law to collect the Assessment plus interest at the highest rate allowed by law, plus court costs and reasonable attorneys' fees and may also file an action in equity to foreclose its lien at any time after the effective date thereof. The lien may be foreclosed by an action in the name of the Association in like manner as a foreclosure of a mortgage on real property. The remedies provided herein shall be non-exclusive and cumulative and shall not exclude any other remedy available to the Association by this Plan, law or otherwise.

2. In addition to the foregoing remedies, the Board in its sole discretion may impose a late charge not to exceed twenty-five (25%) percent of the Assessment against an Owner in default.

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3. If the Owner remains in possession of the Unit and a claim of lien is foreclosed, the Owner shall pay a reasonable rental fee for the Unit and the Association is entitled to the appointment of a receiver to collect the rent.

4. Notwithstanding anything in this Plan to the contrary, in the event any Owner (other than the Developer) shall fail to pay any Assessment after the same becomes due, then during such period of default, such Owner shall not be entitled to possession of its Assigned Unit nor shall such Owner be entitled to vote or exercise any of the rights of an Owner as may be provided for herein. In addition to the foregoing, during the period of such default (other than default with respect to the Developer) as specified above, the Association shall be entitled, without further authorization from the Owner, to lease his Assigned Unit on such terms and conditions as may be determined in the sole discretion of the Association and to utilize any rental income received to reimburse the Association for any Assessment in default. Any excess fees received from such rental arrangement shall operate as a credit against future Assessments. The penalty imposed herein shall in no way operate as a waiver of other rights the Association may have in a court of law or equity to enforce the collection of such unpaid Assessments.

5. Any person who acquires an interest in a Time Share interest, except through foreclosure of a mortgage held by an Institutional Mortgagee or by acceptance of a deed in lieu of foreclosure as specifically provided herein, including but not limited to persons acquiring title by operation of law or purchasers at judicial sales, shall not be entitled to occupancy of the Time Share interest until such time as all unpaid Assessments due and owing by the former Owner have been paid.

**C. Failure of Owner to Vacate.**

In the event any Owner of a Time Share interest fails to vacate his Assigned Unit at the expiration of his Assigned Unit Week or at such earlier time as may be fixed by the Rules and Regulations adopted by the Association from time to time, he shall be deemed a "Holdover Owner". It shall be the responsibility of the Association to take such steps as may be necessary to remove such Holdover Owner from the Unit and to assist the Owner of a Time Share interest entitled to occupy a subsequent Assigned Unit Week who may be affected by the Holdover Owner's failure to vacate, to find alternative accommodations during such holdover period.

In addition to such other remedies as may be available to it, the Association shall secure, at its expense, alternate accommodations for any Owner who may not occupy his Assigned Unit during its Assigned Unit Week due to the failure to vacate of any Holdover Owner. Such accommodations shall be as near in value to the Owner's own Assigned Unit as possible. The Holdover Owner shall be charged for the loss of such alternative accommodations and any other costs incurred due to his failure to vacate and an administrative fee of Fifty (\$50.00) Dollars per day during his period of holding over. In the event it is necessary that the Association contract for a period greater than the actual period of holding over in order to secure alternative accommodations as set forth above, the entire period shall be the responsibility of the Holdover Owner, although the Fifty (\$50.00) Dollar per day administrative fee shall cease upon actual vacating by the Holdover Owner.

The Association shall submit a bill to the Holdover Owner in accordance with this paragraph. In the event the Holdover Owner fails to pay same within ten (10) days of the date of same, a lien shall be filed against said Holdover Owner's Time Share interest in accordance with the provisions hereof.

The foregoing provisions shall not abridge the Association's right to take such other action as is provided by law or equity.

**ARTICLE VI**

**GUARANTEE OF ASSESSMENTS**

Developer may guarantee the Common Expenses adopted from time to time by the Association and during any such period of guarantee, Developer shall not be required to pay any assessments levied with respect to any unsold Time Share interest owned by the Developer or with respect to the Developer's undivided interest in the Retained Property provided, however, during such period of Developer's guarantee, Developer shall be obligated to pay for any amount required to pay the Common Expenses not receivable from Owners of Time Share interests other than Developer.

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ARTICLE VII

COMMON EXPENSES

The following expenses are declared to be Common Expenses which the Owners are obligated to pay as provided herein.

A. Maintenance Fees. All expenses for the repair and upkeep of a Unit for normal wear and tear, repair and replacement of furniture, fixtures, appliances, carpeting and utilities.

B. Utility Charges. All charges levied for utilities providing services for any portion of the Time Share Accommodation and Common Facilities, whether they are supplied by a private or public firm. It is contemplated that this obligation will include all charges for water, gas, sprinkler systems, sprinkler pumps, telephone, sewer, sewage pumps and any other type of utility or any other type of service charge.

C. Liability Insurance. The premiums on the policy or policies of insurance as described in Article IX of this Plan.

D. Fire, Windstorm and Other Casualty Insurance. The premiums for insurance as described in Article X of this Plan.

E. Destruction of Buildings or Improvements. Any sums necessary to repair or replace, construct or reconstruct damages caused by the destruction of any portion of the Time Share Accommodations or the Common Facilities by fire, windstorm or other casualty regardless of whether or not the same is covered in whole or in part by insurance. In the event insurance money shall be payable, such insurance money shall be paid in accordance with the provisions of Article X hereof.

F. Repair, Replacement and Maintenance. All expenses necessary to keep and maintain, repair and replace any portion of the Time Share Accommodations, including, but not limited to, personal property, furniture, fixtures and equipment and any portion of the Common Facilities in a manner consistent with the development of the Time Share Accommodations and the Common Facilities and in accordance with the covenants and restrictions contained herein and in conformity with all orders, ordinances, rulings and regulations of any and all federal, state and city governments having jurisdiction thereover, as well as the statutes and laws of the State of Florida and the United States.

G. Operational Expenses. The costs of administration and operation of the Association, including any employees and managing entity or entities necessary to carry on the obligations and covenants of the Association.

H. Indemnification. The Association covenants and agrees that it will indemnify and save harmless Developer from and against any and all claims, suits, actions, damages and/or causes of action arising from any personal injury, loss of life, and/or damage to property, sustained on the Time Share Accommodations or Common Facilities thereto from and against all costs, counsel fees, expenses and liabilities incurred in and about any such claim, the investigation thereof or the defense of any action or proceeding brought thereon and from and against any orders, judgments and/or decrees which may be entered thereon. Including in the foregoing provisions of indemnification are any expense that Developer may be compelled to incur in bringing suit for the purpose of enforcing rights hereunder or for the purpose of compelling the specific enforcement of the provisions, conditions and covenants contained in the Declaration to be kept and performed by the Association and its members.

I. Reserve Funds. The cost to establish an adequate reserve fund for replacement and/or capital refurbishment and/or capital improvements of all or any portion of the Time Share Accommodations or Common Facilities determined proper and sufficient by the Board. Each Owner acknowledges, understands and consents that such reserve funds, if any, are the exclusive property of the Association as a whole and that no Owner shall have any interest, claim or right to any such reserves.

J. Miscellaneous Expenses. The cost of all items of expenses pertaining to or for the benefit of the Time Share Accommodations or Common Facilities and any improvements now or hereafter located thereon or any part thereof not herein specifically enumerated.

K. Taxes. If the Board so determines, the Board may include as Common Expenses, any and all taxes levied or assessed at any and all times by any and all taxing authorities, including all taxes, charges, assessments and impositions and liens

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for public improvements, special charges and assessments in water drainage districts and in general all taxes and tax liens which may be assessed against the Time Share Accommodations and the Common Amenities and against any and all personal property and improvements which are now or which may hereinafter be placed thereon, including any interest, penalties or other charges which may be included thereon. Notwithstanding anything contained herein to the contrary, however, unless otherwise required by law the Association shall not be obligated to include such taxes as part of the Common Expenses and collect Assessments therefor. However, in the event such taxes are not included as part of the Common Expenses of each Owner, the Association may, at its option collect such taxes.

L. Separate Budgets. The Association shall prepare separate budgets with respect to the Common Facilities and the Time Share Accommodations. The Budget for the Common Facilities shall include but not necessarily be limited to all expenses for maintenance, administration, management, repair and upkeep of the Common Facilities including but not limited to repair and replacement of furniture, fixtures, appliances, carpeting, utilities, and personal property used in connection therewith, and all electrical, water, sewer, garbage disposal, gas, plumbing, air conditioning and all other mechanical services and equipment, the roof, all structural components of the building in which the Time Share Accommodations and Common Facilities are located, all exterior portions of the building the parking facilities, and landscaping surrounding all areas of the building, in which the Time Share Accommodations and Common Facilities are located. The Budget for the Time Share Accommodations shall include similar expenses as may be applicable solely to such Time Share Accommodations.

#### ARTICLE VIII

##### MANAGEMENT OF Time Share Accommodations

The Association may, however, shall not be obligated to, enter into a management agreement with a separate management firm and/or a Manager (including Developer or its affiliate(s)) as the Board may determine in its sole discretion whereby it contracts for management services which are required to discharge its duties under this Plan and for the management, operation and maintenance of the Time Share Accommodations and Common Facilities. Further, the Association may, in the sole discretion, employ a Manager. All costs associated with such management may, at the discretion of the Board, be assessed as a Common Expense against the Owners.

#### ARTICLE IX

##### LIABILITY INSURANCE

The Board shall obtain liability insurance with such coverage and in such amounts as it may determine from time to time for the purpose of providing liability insurance coverage for the Time Share Accommodations, Common Facilities and each Member Time Share Accommodations managed by the Association. Premiums for such insurance shall be part of the Common Expenses. Such insurance shall also include public liability, workmen's compensation and hired automobile coverage. All liability insurance shall contain a cross liability endorsement to cover liabilities of the Owners as a group to each Owner.

#### ARTICLE X

##### CASUALTY INSURANCE AND DESTRUCTION OF IMPROVEMENTS

A. The Association shall obtain casualty insurance with such coverage and in such amounts as it may determine from time to time for the purpose of providing casualty insurance coverage for the Time Share Accommodations and Common Facilities, including fire and extended coverage insurance, vandalism and malicious mischief insurance and flood insurance sponsored by the federal government, all of which insurance shall insure all of the insurable improvements on and within the Time Share Accommodations and Common Facilities, including personal property owned by the Association, in and for the interest of the Association, all Owners and Institutional Mortgagees, as their interest may appear, in a company acceptable to the standards set by the Board in an amount equal to the maximum insurable replacement value as determined annually by the Board. The premiums for such coverage and other expenses in connection with such insurance shall be paid by the Association and charged to

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Owners as part of the Common Expenses. The company or companies with which the Association shall place its insurance coverage, as provided in this Plan, and the insurance agent or agents placing such insurance must be authorized to do business in the State of Florida with a place of business in Broward County, Florida. The Institutional Mortgagee holding the highest dollar indebtedness encumbering Time Share Interest shall have the right, for so long as it holds such highest dollar indebtedness, to approve the form of such insurance policies, the amounts thereof, the company or companies who shall be the insurers under such policies and the insurance agent or agents, and the designation of an "Insurance Trustee" (as hereinafter defined) and a successor "Insurance Trustee", which consent will not be unreasonably delayed or withheld. The Association shall have the right to designate an Insurance Trustee (the "Insurance Trustee") to act as an insurance trustee in the manner provided in this Plan, which Insurance Trustee shall be a commercial bank or trust company which is authorized to do business in the State of Florida and which has its principal office in Broward County, Florida, and thereafter, at any time and from time to time, the Association shall have the right to change the Insurance Trustee to another such bank or trust company. In the event the Board determines in its sole discretion that it is impractical to obtain separate policies insuring the Time Share Accommodations, Common Facilities and Retained Property the Board may obtain one (1) policy insuring all portions of the property however the cost of such policy shall be allocated by the Association so that the Developer shall be solely responsible for the cost of coverage for all portions of the Retain Properties. The total cost of such insurance coverage on the Common Facilities and Time Share Accommodations shall be allocated to the maximum extent possible between the Developer and the Owners of Times Share Interests in accordance with the percentage ownership interest of each in the property.

B. All policies of insurance purchased by the Association shall be deposited with the Insurance Trustee upon its written acknowledgment that the policies and any proceeds thereof will be held in accordance with the terms hereof. Said policies shall provide that all insurance proceeds payable on account of loss or damage shall be payable to the Insurance Trustee, and the Insurance Trustee may deduct from the insurance proceeds collected a reasonable fee for its services as Insurance Trustee. The Board is hereby irrevocably appointed agent for each Owner to adjust all claims arising under insurance policies purchased by the Association in which Owners have or may have an interest. The Insurance Trustee shall not be liable in any manner for the payment of any premiums on policies, the renewal of policies, the sufficiency of the coverage of any such policies or any failure to collect any insurance proceeds under any policies.

C. In the event of any damage to the Time Share Accommodations, no Institutional Mortgagee shall have any right to participate in the determination of whether the Time Share Accommodations are to be rebuilt; nor shall any Institutional Mortgagee have the right to apply insurance proceeds received by the Insurance Trustee to the repayment of its loan, unless such proceeds are distributed to Owners and/or their respective Institutional Mortgagees.

D. The duty of the Insurance Trustee shall be to receive any and all proceeds from the insurance policies held by it as such Insurance Trustee and to hold such proceeds in trust for the Association, Owners and Institutional Mortgagees under the following terms:

1. Loss Less Than "Very Substantial": Where a loss or damage occurs to any Unit or Units in the Time Share Accommodations or to the Common Facilities, but said loss is less than "very substantial" (as hereinafter defined), it shall be obligatory upon the Association to repair or restore the damage caused by said loss. Where such loss or damage is less than "very substantial":

(a) The Board shall promptly obtain reliable and detailed estimates of the cost of repairing and restoration.

(b) If the damage or loss is limited to the Common Areas with no or inconsequential damage or loss to any individual Unit, and if such damage or loss to the Common Areas is less than \$3,000.00, the insurance proceeds shall be endorsed by the Insurance Trustee over to the Association, and the Association shall promptly contract for the repair and restoration of the damage.

(c) Subject to the provisions of subparagraph (f) hereinafter, if the damage or loss involves any individual Unit as well as the Common Areas, or if the damage is limited to the Common Areas alone, but is in excess of \$3,000.00, the insurance proceeds shall be disbursed by the Insurance Trustee for the repair and restoration of the property upon the written direction and approval of the Association; provided, however, that upon the request of the Institutional

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Mortgagee, having the highest dollar indebtedness on Units in the Time Share Accommodations, the written approval shall also be required of such Institutional Mortgagee. Should written approval be required as aforesaid, it shall be said Institutional Mortgagee's duty to give written notice thereof to the Insurance Trustee. The Insurance Trustee may rely upon the certificate of the Association and the aforesaid Institutional Mortgagee, if said Institutional Mortgagee's written approval is required, as to the payee and the amount to be paid from said proceeds. All payees shall deliver paid bills and waivers of mechanics' liens to the Insurance Trustee, and execute any affidavit required by law or by the Association, the aforesaid Institutional Mortgagee, or the Insurance Trustee, and deliver same to the Insurance Trustee. In addition to the foregoing, the Institutional Mortgagee whose approval may be required, as aforesaid, shall have the right to require the Association to obtain a completion, performance, and payment bond in an amount and with a bonding company authorized to do business in the State of Florida which is acceptable to said Institutional Mortgagee.

(d) Subject to the foregoing, the Board shall have the right and obligation to negotiate and contract for the repair and restoration of the premises.

(e) If the net proceeds of the insurance are insufficient to pay for the estimated cost of restoration and repair to any Unit or Units or to the Common Areas for the actual cost thereof, if the work has actually been done, the Association shall promptly, upon determination of the deficiency, levy a uniform Special Assessment against all Owners for the deficiency. The Special Assessment shall be delivered by the Association to the Insurance Trustee and added, by said Trustee, to the proceeds available for the repair and restoration of the Time Share Accommodations.

(f) In the event the insurance proceeds are sufficient to pay for the cost of restoration and repair, or in the event the insurance proceeds are insufficient but additional funds are raised by Special Assessment within one hundred twenty (120) days after the casualty, so that sufficient funds are on hand to fully pay for such restoration and repair, then no Mortgagees shall have the right to require the application of insurance proceeds as to the payment of its loan; provided, however, this provision may be waived by the Board in favor of any Institutional Mortgagee upon request therefor at any time. To the extent that any insurance proceeds are required to be paid over to such Institutional Mortgagee, the Owner shall be obliged to replenish the funds so paid over, and said Owner and his Time Share Interest shall be subject to Special Assessment for such sum.

2. "Very Substantial Damage": As used in this Plan, the term "very substantial" damage shall be deemed to mean loss or damage whereby any of the following conditions occur:

(a) Three-fourths (3/4) or more of the Time Share Accommodations and Common Facilities are rendered untenable and/or inoperable or loss or damage whereby seventy-five (75%) percent or more of the total amount of insurance coverage on the Time Share Accommodations and Common Facilities become payable; or

(b) In the event three-fourths (3/4) or more of the entire property in which the Time Share Accommodations and/or Common Facilities are located is rendered untenable or inoperable or whereby seventy-five (75%) percent or more of the total amount of insurance covering the entire property including the Time Share Accommodations and Common Facilities becomes payable.

Should such "very substantial" damage occur, then the loss shall be repaired or the insurance proceeds distributed in accordance with the terms contained herein.

3. In the event of such "very substantial" damages:

(a) The Board shall obtain detailed estimates or bids for the cost of rebuilding and reconstruction of such damaged property for the purpose of determining whether such insurance proceeds are sufficient to pay for the same.

(b) In the event the insurance proceeds are sufficient to rebuild and reconstruct all of such damaged improvements or if the insurance proceeds together with the funds described in subparagraph 3(c) below are sufficient for such purpose, then such damaged improvements shall be completely repaired and restored. The Board shall negotiate for the repair and restoration of such

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damaged improvements, and the Association shall negotiate and enter into a construction contract with a contractor to do the work on a fixed price basis or on any other reasonable terms acceptable to the Board, which contractor shall post a performance and payment bond with respect to such work. The Insurance Trustee shall disburse the insurance proceeds and other applicable funds held in trust in accordance with provision for progress payments to be contained in such construction contract; provided, however, prior to any payment of such funds, the payees of such funds shall deliver to the Insurance Trustee any paid bills, waivers of liens under any lien laws and executed affidavits required by law, the Association or any respective Institutional Mortgagees.

(c) In the event the insurance proceeds are insufficient to repair and replace all of the damaged improvements, the Board shall hold a special meeting to determine a Special Assessment against all of the Owners to obtain any necessary funds to repair and to restore such damaged improvements. Such Special Assessment shall be uniform as to all Time Share interests. Upon the determination by the Board of the amount of such Special Assessment, the Board shall immediately levy such Special Assessment against an Owner's Time Share interest, setting forth the date or dates of payment of the same, and any and all funds received from the Owners pursuant to such Special Assessment shall be delivered to the Insurance Trustee and disbursed as provided in subparagraph 3(b) immediately preceding. In the event three-fourths (3/4) of the Owners advise the Board in writing on or before the date for the first payment thereof that they are opposed to a Special Assessment, then the Insurance Trustee shall divide the net insurance proceeds equally and shall promptly pay each share of such proceeds to the Owners and Institutional Mortgagees of record as their interests may appear (an "Insurance Proceeds Distribution"). In making such distribution to the Owners and the Institutional Mortgagees, the Insurance Trustee may rely upon a certificate of an abstract company as to the names of the then Owners and their respective Institutional Mortgagees.

4. Notwithstanding anything contained herein to the contrary any insurance proceeds payable on any portions of the property other than the Time Share Accommodations and Common Facilities shall be payable directly to the Developer, its successor or assigns and not to the Insurance Trustee, it being the intent hereof that the insurance proceeds payable on account of damage to all or any portion of the Retained Property be payable solely for the use and benefit of the Developer.

5. Upon the occurrence of any damage, the Board shall immediately make a determination as to whether or not such damage has occurred to the Time Share Accommodations, Common Facilities or Retained Property and shall allocate to the fullest extent possible the amount of insurance applicable thereto.

6. In the event any dispute shall arise as to whether or not "very substantial" damage has occurred or as to the manner or amount of allocation of insurance proceeds with respect to the Time Share Accommodations, Common Facilities or Retained Property, it is agreed that such a finding made by the Board shall be binding upon all Owners.

7. The Insurance Trustee may rely upon a certificate of the Association, certifying as to whether or not the damaged property is to be repaired and/or restored. Upon request of the Insurance Trustee, the Association shall deliver such certificate.

8. In the event that after the completion of and payment for the repair and reconstruction of the damage to the Time Share Accommodations, and after the payment of the Insurance Trustee's fee with respect thereto, any excess insurance proceeds remain in the hands of the Insurance Trustee, then such excess shall be disbursed in the manner of the Insurance Proceeds Distribution. However, in the event such repairs and replacements were paid for by any Special Assessment as well as by the insurance proceeds, then it shall be presumed that the monies disbursed in payment of any repair, replacement or reconstruction were first disbursed from insurance proceeds and any remaining funds held by the Insurance Trustee shall be distributed to the Owners in proportion to their contributions by way of Special Assessment.

9. In the event the Insurance Trustee has on hand, within ninety (90) days after any casualty or loss, insurance proceeds and, if necessary, funds from any Special Assessment sufficient to pay fully for any required restoration and repair with respect to such casualty or loss, then no Institutional Mortgagee shall have the right to require the application of any insurance proceeds or Special Assessment to the payment of its loan. Any provision contained herein for the benefit of any Institutional Mortgagee may be enforced by an Institutional Mortgagee.

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10. Any repair, rebuilding or reconstruction of damaged property shall be substantially in accordance with the architectural plans and specifications for (a) the originally constructed Time Share Accommodations, (b) reconstructed Time Share Accommodations, or (c) new plans and specifications approved by the Board; provided, however, any material or substantial change in new plans and specifications approved by the Board from the plans and specifications of previously constructed property shall require approval by the Institutional Mortgagee holding the highest dollar indebtedness encumbering Units in the Time Share Accommodations.

E. Notwithstanding anything contained herein to the contrary, in the event a loss occurs which is determined to have been attributable to a particular Owner of a Time Share interest and such loss causes damage to the Common Facilities and/or other Units in the Time Share Accommodations, then the Owner of the Time Share interest to which the loss is attributable shall be assessed the entire expense of the insured's policy deductible, if any. In the event a loss occurs to the Common Facilities and/or Common Areas and more than one Unit within the Time Share Accommodations and such loss cannot be determined to have emanated from any particular Owner, then all Owners within the Time Share Accommodations, shall equally bear the expense of the insured's policy deductible, if any.

G. The Association shall, in addition to the insurance requirements contained herein, obtain adequate insurance, including liability insurance, for all portions of the Time Share Accommodations and all other portions of the property. All of the provisions herein, with respect to the obligations of the Association to acquire and maintain insurance and the distribution thereof, with respect to the Time Share Accommodations, shall apply equally with respect to the Common Facilities. With respect to the Common Facilities, the Developer, the Association, all members of the Association, and their Mortgagees, as their interests may appear, shall be designated as additional loss payees. The coverage shall equal the maximum insurable replacement value as determined annually by the Board. Casualty insurance shall include fire and extended coverage, vandalism and malicious mischief insurance, and flood insurance sponsored by the Federal Government, all of which shall insure all of the insurable improvements on the Common Facilities, including personal property.

#### ARTICLE XI

#### CONDEMNATION

##### A. Deposit of Awards with Insurance Trustee.

The taking of the Time Share Accommodations by condemnation shall be deemed to be a casualty and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty and shall be deposited with the Insurance Trustee. Even though awards may be payable to Owners, in the event of failure to do so, in the discretion of the Board, a Special Assessment shall be made against a defaulting Owner in the amount of his award, or the amount of that award shall be set off against the sums hereafter made payable to that Owner.

##### B. Determination Whether to Continue Time Share Accommodations.

Whether the Time Share Accommodations will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by condemnation shall be deemed to be a casualty.

##### C. Disbursement of Funds.

If the Time Share Accommodations is terminated after condemnation, the proceeds of the awards and Special Assessments will be deemed to be common property of the Owners and shall be owned and distributed in the manner of the Insurance Proceeds Distributions. If the Time Share Accommodations is not terminated after condemnation, the size of the Time Share Accommodations will be reduced, the Owners of condemned Units will be made whole and the property damaged by the taking will be made useable 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 of the Insurance Proceeds Distribution.

##### D. Unit Reduced But Tenantable.

If the taking reduces the size of a Unit and the remaining portion of the Unit can be made tenantable, the award for taking of a portion of the Unit shall be used for

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the following purposes in the order stated and the following changes shall be effected in the Time Share Accommodations

1. Restoration of Unit.

The Unit shall be made tenatable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be assessed against Owners of the Unit Weeks in the Unit.

2. Distribution of Surplus.

The balance of the award, if any, shall be distributed to the Owners of Unit Weeks in the Unit and to each mortgagees of Unit Weeks in the Unit, the remittance being made payable jointly to the Owners and mortgagees.

E. Unit Made Untenatable.

If the taking is of the entire Unit or so reduces the size of a Unit that it cannot be made tenatable, the award for the taking of the Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Time Share Accommodations.

1. Payment of Award. The award shall be paid first to all Institutional Mortgagees in an amount sufficient to pay off their mortgages due from those Units which are not tenatable; and then jointly to the Owners and mortgagees of Unit Weeks in the Units not tenatable in an amount equal to the market value of the Unit immediately prior to the taking and with credit being given for payments previously reserved for Institutional Mortgagees; and the balance, if any, to repairing and replacing the Common Areas.

2. Addition to Common Areas. The remaining portion of the Unit, if any, shall become part of the Common Area and shall be placed in condition for use by all of Unit Owners in the manner approved by the Board provided that if the cost of the work shall exceed the balance of the fund from the award for the taking, the work shall be approved in the manner elsewhere required for further improvement of the Common Areas.

3. Adjustment of Time Share Interest. The Time Share Interest of each Owner in the Units and Common Areas that continue as part of the Time Share Accommodations shall be adjusted to equally distribute the Time Share Interests among the reduced number of Owners.

4. Special Assessments. If the amount of the award for the taking is not sufficient to pay the market value of the condemned Unit to the Owner and to condition the remaining portion of the Unit for use as a part of the Common Areas, the additional funds required for those purposes shall be raised by Special Assessments against all of the Owners who will continue as Owners of Units after the changes in the Time Share Accommodations affected by the taking. The Special Assessments shall be made in proportion to the Time Share Interest of those Owners in the Time Share Accommodations after the changes affected by the taking.

5. Arbitration. If the market value of a Unit prior to the taking cannot be determined by agreement between the Owner and mortgagees of Unit Weeks in the Unit and the Association within thirty (30) days after notice by either party, the value shall be determined by arbitration in accordance with the existing rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit; and a judgment of specific performance upon the decision rendered by the arbitrators may be entered in any court of competent jurisdiction. The cost of arbitration proceedings shall be assessed equally against all Owners of Unit Weeks in the affected Units.

F. Taking of Common Areas. Awards for the taking of Common Areas shall be used to make the remaining portion of the Common Areas useable in the manner approved by the Board; provided, that if the cost of the 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 further improvement of the Common Areas. The balance of the awards for the taking of Common Areas, if any, shall be distributed equally to the Owners. If there is a mortgage of a Unit, the distribution shall be paid jointly to the Owner and the mortgagees of the Unit.

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G. Amendment of Plan. The changes in Units, in the Common Areas and in the Time Share Interest of each Owner shall be evidenced by an Amendment of this Plan that need be approved by fifty-one (51%) percent of the total membership vote or Units whose Owner's Time Share Interest are affected by such condemnation.

#### ARTICLE XII

#### GRANT OF EASEMENTS AND RESERVATION OF EASEMENTS AND RIGHTS

##### A. Perpetual Non-Exclusive Easement to Common Areas and Public Ways.

The driveways, walks and other rights-of-way in the property shall be and the same are hereby declared reserved to be subject to a perpetual non-exclusive easement over and across same for ingress and egress to and from the Time Share Accommodations and publicly dedicated ways in favor of Developer, the Association, the Managing Entity, the Owners and all of their family members, guests, licensees, lessees and invitees.

##### B. Easements and Cross-Easements.

1. Developer hereby grants an easement or easements to the Association and its designees on, upon, across, through and under the Common Areas and/or the Common Facilities (which easement may include reasonable rights of access for persons and equipment necessary to accomplish such purposes) to provide utility services, including, without limitation, power, electric, light, telephone, cable television, gas, water, sewer and drainage and any other utility or service upon or for the benefit of any part of the resort and facility, and to provide for the repair and maintenance of the equipment required to provide such utility services.

##### C. Reservation of Easement by Developer.

The Developer reserves and shall have the right to enter into and transact in the Time Share Accommodations any portion of the property including the Common Facilities, any business necessary to consummate the sale or lease of Units or the construction or repair, maintenance or reconstruction of improvements located on the property, including the right to maintain models and a sales office, place signs, employ sales personnel, including the right to carry on construction or maintenance activities. The provisions hereof may not be suspended, superseded or modified in any manner and any amendment to the Declaration must be consented to in writing by the Developer. The rights of use and transaction of business set forth herein and any other rights reserved in the Declaration may be assigned in writing by the Developer in whole or in part.

#### ARTICLE XIII

#### LAND USE COVENANTS

In consideration of the benefits hereinafter contained and the payment of the Common Expenses referred to herein, Developer does hereby declare that the Time Share Accommodations and Common Facilities shall be used, transferred, demised, sold, conveyed and occupied subject to the terms of the Plan as follows:

##### A. Occupancy and Use Restrictions

1. The Units shall be for transient resort occupancy only. No trade, business, profession or other type of commercial activity may be conducted in any Unit except for any Units which are used by Developer for models, sales offices, construction offices, storage or related uses. Each Owner shall have the exclusive right to use and occupy his Assigned Unit during the Assigned Unit Week assigned to such Owner subject to the provisions of the Plan.

2. An Owner shall not keep a pet in his Unit unless specifically permitted by the Rules and Regulations which may be promulgated by the Association from time to time, nor shall an Owner keep any other animals, livestock or poultry in his Unit, nor may any of the same be raised, bred or kept upon the Common Facilities, Common Areas or any portion of the Time Share Accommodations.

3. An Owner shall not permit or suffer anything to be done or kept in its Unit which will increase the insurance rates on its Unit, Common Areas,

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or Common Facilities which will obstruct or interfere with the rights of other Owners or the Association or the Managing Entity.

4. No Owner shall annoy other Owners by unreasonable noises or otherwise and no Owner shall commit or permit to be committed any nuisance or immoral or illegal act in its Unit or on the Unit, Common Areas, or Common Facilities.

5. In the event of damage to or destruction of any Unit, the furnishings in any Unit or the Common Areas, or any portion of the Common Facilities caused by an Owner or the family members, guests, invitees, lessees or licensees of an Owner, such Owner shall be liable for the cost of necessary repairs and reconstruction to restore the Unit, furnishings and/or Common Areas and/or Common Facilities to its original condition and the cost thereof shall be a lien in accordance with the terms provided for herein.

6. No Owner (with the exception of Developer, for so long as Developer is an Owner) shall display any sign, advertisement or notice of any type on the exterior of its Unit, the Common Areas or Common Facilities or at any window or other part of its Unit or on any personal property located therein; no Owner shall erect any exterior antennae or aerials upon its Unit or the Common Areas or Common Facilities; and no Owner shall cause anything to project out of any window, door, porch or balcony except as may be approved in writing by the Association (except as installed as of the date the Plan is recorded or except as thereafter installed by Developer).

7. An Owner (excluding Developer, for so long as Developer is an Owner) shall not be permitted to keep any boat, trailer, truck, camper or van in excess of twenty (20) feet long, recreational vehicle or other vehicle which is not a private passenger car on any portion of the Common Facilities and any such vehicle shall be removed at the expense of the Owner responsible therefor. The use of parking spaces may be further regulated and limited by the Rules and Regulations promulgated by the Association.

8. No clothesline or other similar device shall be allowed on any portion of the Time Share Accommodations or Common Areas or Common Facilities and no clothes, sheets, blankets, laundry, rugs or any kind of article shall be dried, aired, beaten or dusted by extending same from the windows, doors, porches or balconies of a Unit.

9. Each Owner shall keep its Unit in a good state of preservation and cleanliness and shall not sweep or throw or permit to be swept or thrown therefrom or from the doors, windows, porch or balcony thereof any dirt or other substances.

10. Waterclosets and other water apparatus on any portion of the property shall not be used for any purposes other than those for which they were constructed. Any Owner shall pay for any damage to a Unit, its contents and/or the Common Areas, and/or any portion of the Common Facilities because of the misuse of waterclosets or other apparatus in its Unit. Liability for any damage to a Unit caused by the moving or carrying of any article on the property shall be borne by the Owner responsible or the presence of such article. An Owner shall be liable for the expense of any maintenance, repair or replacement of any real or personal property rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents, licensees, or lessees. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Unit, Common Areas, Common Facilities and shall also include the cost of repairing broken windows. An Owner shall also be liable for any personal injuries caused by his negligent acts or those of any member of his family, or his or their guests, employees, agents, licensees or lessees. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

11. No Owner shall use or permit to be brought into any Unit, porch or balcony any inflammable oils or fluids such as gasoline, kerosene, naphtha, benzene or other explosives or articles deemed extra hazardous to life, limb or property.

12. The Association will retain a passkey to each Unit. No Owner shall alter any lock or install a new lock on any door leading into its Unit without the prior written consent of the Association. If such consent is given, the Owner shall provide the Association with a key for the use of the Association. In the event the Association is not provided with a key to the Unit, the Owner shall pay the cost incurred by the Association in gaining entrance to its Unit.

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13. An Owner may not make or cause to be made any structural modifications to its Unit (except those modifications which exist as of the date the Plan is recorded or as made by Developer) without the Association's prior written consent, which consent may be unreasonably withheld.

B. Private Use: Except as otherwise provided for herein, the Units, and the Common Areas contained in the Time Share Accommodations are not for the use and enjoyment of the public, but are necessarily reserved for the private use and enjoyment of the Developer, the Association, the Managing Entity, the Owners, guests, invitees and lessees in accordance with the Plan. Notwithstanding anything contained herein to the contrary the Developer, its successors and assigns specifically reserve the right to assign use rights to third persons, firms or entities in and to any portion of the Common Facilities or Retained Property upon such terms and conditions as the Developer may promulgate.

C. Rules and Regulations: The Association may impose rules and regulations regulating the use and enjoyment of the Units, Common Facilities and Common Areas. The rules and regulations so promulgated shall in all respects be consistent with the use covenants set forth in the Declaration and with the architectural and beautification concept presently existing. The Association may modify, alter, amend and rescind such rules and regulations, provided such modifications, alterations, amendments and rescissions are consistent with the use covenants set forth herein.

#### ARTICLE XIV

##### PROVISIONS FOR ALTERATIONS OF UNITS BY DEVELOPER

A. Developer reserves the right to alter the interior design and arrangement of all Units and to alter the boundaries between Units and to combine two (2) or more Units into one (1) Unit or to sever any Unit comprised of two (2) or more Units into its component parts as long as Developer owns the Units so altered (which alterations made by Developer to Units it owns are hereinafter referred to as the "Alterations").

B. An amendment of the Plan to evidence such Alterations shall be filed by Developer in accordance with the provisions of this paragraph B. Such amendment ("Developer's Amendment") need be signed and acknowledged only by Developer and shall not require approval of the Association, other Owners or lenders or mortgagees of the amendment of the Plan. This amendment shall adjust the Time Share Interest and the voting rights attributable to the Time Share Interest being affected by the Alterations and may be made as a Developer's Amendment as long as Developer owns the Time Share Interests attributable to the Units being adjusted.

#### ARTICLE XV

##### AMENDMENTS TO THE PLAN

A. So long as the Developer has a right to appoint all officers and directors of the Board, as provided for herein, any Amendments may be made by the Developer alone, which Amendment shall be signed by the Developer and need not be joined in by any other party, provided, however, that such Amendment shall not materially and adversely affect any Owner's property rights or materially and adversely affect any Owner's use and enjoyment of the Time Share Accommodations, and/or Common Facilities, change the percentage undivided interest of any Owner in the property, modify the manner in which assessments for maintenance of the Time Share Accommodations and/or Common Facilities relate to the detriment of any Owner.

B. Except for a Developer's Amendment and except for amendments which are permitted to be made by the Developer pursuant to the terms hereof, the Plan may be amended only by the consent of fifty-one (51%) percent of all voting interests. Except for an Amendment made by the Developer, pursuant to the terms hereof, no Amendment of the Plan shall change the configuration or size of any Unit in any material fashion or materially alter or modify the appurtenances to such Unit, unless all of the record Owners of the Time Share Interests affecting such Unit and all of the Institutional Mortgagees of record holding Mortgages on said Time Share Interest shall consent in writing thereto. Any such amendment shall be voted on at a special meeting of the affected Owners and their consent thereto shall be evidenced by a certificate joined in and executed by such Owners and all affected Institutional Mortgagees and recorded in the same manner as an amendment provided in paragraph A of this Article XV.

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ARTICLE XVI

TRANSFER OF ASSOCIATION CONTROL

Control of the Association shall be transferred to Owners other than the Developer at such time as the Developer is no longer permitted to elect a majority of the members to the Board. At such time, the Developer shall transfer all right, title and interest to the Association of all books, records, accounts, and other properties of the Association together with such other items as may be necessary for Owners other than the Developer to assume control. Notwithstanding anything contained herein to the contrary, the Developer may, in its sole discretion, relinquish control of the Association to Owners, other than the Developer, prior to the acquired turnover date irrespective of whether or not the Developer has a right to appoint a majority of the members to the Board.

ARTICLE XVII

TERMINATION

A. This Plan may be terminated only by the affirmative written consent of at least eighty (80%) percent of the Owners (other than the Developer) and the written consent of all Institutional Mortgagees encumbering Time Share Interests in the property; provided, however, that the Board consents to such termination by a vote of three-fourths (3/4) of the entire Board taken at a special meeting called for that purpose.

B. In the event of the termination of this Plan, the property shall be deemed removed from the provisions of the Act and shall be owned in common by the Owners pro rata in accordance with their Time Share Interest as provided in this Plan. Any and all lien rights provided for in this Plan or elsewhere shall continue to run with the real property designated herein as the Time Share Accommodations and Common Facilities and shall encumber the respective undivided shares of the Owners thereof as tenants in common. Each Owner shall continue to be responsible for his pro rata share of Common Expenses.

ARTICLE XVIII

PARTITION

No Owner or any other person or entity acquiring any right, title or interest in a Time Share Interest shall seek or obtain through any legal procedure, judicial partition of the property or sale of the property or any interest therein in lieu of partition.

ARTICLE XIX

RIGHTS RESERVED UNTO INSTITUTIONAL MORTGAGEES

A. So long as any Institutional Mortgagee shall hold any mortgage upon any Time Share Interest or shall be the Owner of any Time Share Interest, such Institutional Mortgagee shall have the following rights:

1. To be entitled to be furnished with at least one (1) copy of the Annual Financial Statement and Report of the Association, prepared by a Certified Public Accountant designated by the Association, including a detailed statement of annual carrying charges or income collected and operating expenses; such Financial Statements and Report to be furnished, upon written demand, within ninety (90) days following the end of each calendar year.

2. To be given notice by the Association of the calling of any meeting of the membership to be held for the purpose of considering any proposed amendment to this Plan, the Articles or the By-Laws, which notice shall state the nature of the amendment being proposed.

3. To be given notice of default by any Owner of a Time Share Interest encumbered by a mortgage held by any Institutional Mortgagee, such notice to be given in writing and sent to the principal office of such Institutional Mortgagee or to the place which it may designate in writing to the Association.

4. To cause the Association to create and maintain an escrow account for the purpose of assuring the availability of funds with which to pay

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premiums due from time to time on insurance policies which the Association is required to keep in existence, it being understood that the Association shall deposit in an escrow depository satisfactory to the Institutional Mortgagee having the highest dollar indebtedness on Time Share Interests in the Time Share Accommodations, a monthly sum equal to one-twelfth (1/12) of the annual amount of such insurance expense and to contribute such other sum as may be required therefor to the end that there shall be on deposit in said escrow account at least one (1) month prior to the due date for payment of such premium, a sum which shall be sufficient to make full payment therefor. The Insurance Trustee designated by the Association shall be the escrow depository for the purposes hereof or the Board may designate any Institutional Mortgagee interested in the Time Share Accommodations to act in such capacity.

B. Whenever any Institutional Mortgagee desires to be subject to the provisions of this Article, such Institutional Mortgagee shall service written notice of such fact upon the Association by registered or certified mail, addressed to the Association and sent to its address stated herein, with a copy by registered or certified mail addressed to the Institutional Mortgagees having the highest dollar indebtedness on Time Share Interests in the Time Share Accommodations, which written notices shall identify the Time Share Interest upon which any such Institutional Mortgagee holds any mortgage or mortgages or otherwise sufficiently identifies the Time Share Interest and the mortgage or mortgages held by such Institutional Mortgagee, and such notice shall designate the place to which notices are to be given by the Association to such Institutional Mortgagee.

C. Should the Association fail to pay any premium for insurance required to be placed on the Time Share Accommodations, or should the Association fail to comply with other insurance requirements imposed by the Institutional Mortgagee owning and holding the highest dollar indebtedness against Time Share Interests in the Time Share Accommodations, then said Institutional Mortgagee shall have the right, at its option, to order and advance such sums as are required to maintain or procure such insurance and to the extent of the monies so advanced, plus interest thereon, at the highest rate allowed by law, said Institutional Mortgagee shall be subrogated to the lien rights of the Association against individual Time Share Interests for the payment of such items of Common Expense.

D. If two (2) or more Institutional Mortgagees hold any mortgage upon a Time Share Interest, the exercise of the rights above described or the manner of exercising such rights shall vest in the Institutional Mortgagee holding the highest dollar indebtedness against the Time Share Interest in the Time Share Accommodations and the decision of such Institutional Mortgagee shall be controlling.

E. In addition to such other rights as may be provided herein, the following specific rights shall apply in the event of a default under a mortgage by an Owner.

1. Upon such default, an Institutional Mortgagee may, in its sole discretion, notify the Association in writing of the default and request the Association to withhold possession of the Assigned Unit during the period of time that the Owner of such Assigned Unit would be otherwise entitled to possession.

2. Such Institutional Mortgagee may further request the Association to lease the Assigned Unit during such time, the proceeds of which shall be applied to such mortgage.

3. The Association shall be entitled to retain its reasonable costs and expenses incurred in renting the Assigned Unit. The Association shall be further entitled to rent the Assigned Unit upon any terms and conditions which it deems appropriate in its sole discretion.

4. The Association shall not be required to inquire into the authenticity or propriety of any request made by such Institutional Mortgagee nor shall the Association be liable to the Owner of such Assigned Unit by virtue of complying with the request of such Institutional Mortgagee.

F. The rights of any Institutional Mortgagee as set forth herein shall apply only with respect to the Assigned Unit during the Assigned Unit Week of the Time Share Interest encumbered by such mortgage and shall not affect any other Assigned Unit or Assigned Unit Week notwithstanding anything contained herein to the contrary.

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ARTICLE XX

GENERAL PROVISIONS

A. Duration. All of the covenants, agreements and restrictions covering the Time Share Accommodations, including the land use covenants and affirmative covenants to pay Common Expenses shall run with and bind the Land encumbered hereby and shall inure to the benefit of and be binding upon Developer, the Association and its members, their respective legal representatives, heirs, successors and assigns for a term of thirty (30) years from the date the Plan is recorded, after which time said covenant shall be automatically extended for successive periods of ten (10) years unless after said thirty (30) year term an instrument signed by two-thirds (2/3) of the Owners is recorded agreeing to terminate said covenants and restrictions. No such instrument shall be effective, however, unless made and recorded among the Public Records of Broward County, Florida, one (1) year in advance of the effective date of such termination.

B. Plan of Ownership. Developer, the Association and the Owners and their grantees, successors or assigns by acceptance of their instrument of conveyance of a Time Share interest all acknowledge that the Time Share Accommodations has been developed under a common plan as set forth in Article II herein. Such parties further acknowledge that the easement rights, use covenants and obligations to pay Common Expenses are an integral part of the common plan of development and are required to provide access to and from the various portions of the Time Share Accommodations and publicly dedicated rights-of-way as well as the operation and maintenance of the Time Share Accommodations.

C. Compliance with Regulations of Public Bodies. The Association shall, as a Common Expense, perform such acts and do such things as shall be lawfully required by any public body having jurisdiction over the same in order to comply with sanitary requirements, fire hazard requirements, zoning requirements, set-back requirements, drainage requirements and other similar requirements designed to protect the public.

D. Lawful Use of Land. The Association covenants and agrees that it will conform to and observe all ordinances, rules, laws and regulations of Broward County, State of Florida, and the United States of America and all public authorities and boards of officers relating to the Common Areas or improvements upon the same or use thereof and will not during such time permit the same to be used for any illegal or immoral purpose, business or occupation.

E. Fiduciary Obligation of Association. The officers and directors of the Association have a fiduciary relationship to the Owners and are obligated to fulfill the duties and functions set forth herein and to pursue with due diligence the remedies provided pursuant to the Plan and to enforce the covenants and restrictions herein contained.

F. Severability. Invalidation of any one of these covenants or restrictions or any of the terms and conditions herein contained or the reduction in time by reason of any rule against perpetuity shall in no way affect any other provision which shall remain in full force and effect for such period of time as may be permitted by law.

IN WITNESS WHEREOF, this Plan has been executed by Developer, this 15<sup>th</sup> day of July, 1983.

Signed, Sealed and Delivered to the Presence of:

*[Signature]*  
James F. Hardy

HOLLYWOOD INTERNATIONAL, a Florida general partnership

By: *[Signature]*  
ISAAC GAMEL (General Partner)

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*[Signature]*  
Jeanette F. Hawley

LOCO TRADE OF FLORIDA, INC., a Florida corporation (General Partner)

BY: *[Signature]*  
K. Fujinami, President

(CORPORATE SEAL)

STATE OF FLORIDA )  
COUNTY OF BROWARD ) SS.:

BEFORE ME, the undersigned authority, personally appeared ISAAC GANEL to me known and known to me to be the individual who executed the foregoing instrument and he duly acknowledged before me that he executed the same freely and voluntarily.

WITNESS my hand and official seal in the County and state aforesaid, this 15<sup>th</sup> day of July, 1983.

My Commission Expires:

*[Signature]*  
Notary Public, State of Florida  
Notary Public, State of Florida  
My Commission Expires November 3, 1986  
Bonded by General Insurance Ltd

STATE OF FLORIDA )  
COUNTY OF BROWARD ) SS.:

BEFORE ME, the undersigned authority, personally appeared KIYOSHI FUJINAMI as President of LOCO TRADE OF FLORIDA, INC., a Florida corporation known to me to be the individual who executed the foregoing instrument, and he duly acknowledged before me that he executed the same freely and voluntarily as the act and deed of said corporation.

WITNESS my hand and official seal in the County and state aforesaid, this 15<sup>th</sup> day of July, 1983.

My Commission Expires:

*[Signature]*  
Notary Public, State of Florida  
Notary Public, State of Florida  
My Commission Expires November 3, 1986  
Bonded by General Insurance Ltd

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