

DECLARATION OF CONDOMINIUM  
OF  
TOWERS TEN  
A CONDOMINIUM

SUBMISSION STATEMENT

DiMucci Development Corporation of Daytona Beach Shores, an Illinois corporation, hereinafter referred to as the "Developer", does hereby declare as follows:

1. INTRODUCTION AND SUBMISSION.

1.1 The Land. The Developer owns the fee title to certain land located in Volusia County, Florida, as more particularly described as Towers Ten, on Sheet 1 of Exhibit 1.A attached hereto, which is hereinafter referred to as the "Condominium Property".

1.2 Submission Statement. The Developer hereby submits the Condominium Property and all Improvements erected or to be erected thereon, all easements, rights and appurtenances belonging thereto, and all other property, real, personal or mixed, intended for use in connection therewith, to the condominium form of ownership and use in the manner provided by the Florida Condominium Act as it exists on the date hereof.

1.3 Name. The name by which this condominium is to be identified is Towers Ten, a Condominium (hereinafter called the "Condominium").

I. DEFINITIONS

As used in this Declaration and the exhibits hereto and in all amendments thereto, the following definitions of words and terms shall prevail, unless the context otherwise requires.

A. "Association", means Towers Ten Condominium Association, Inc., a Florida corporation, not-for-profit.

B. "Building" or "Tower," means a structure within which Units and some of the Common Elements are situated, known as Towers Ten as depicted on the attached Plot Plan.

C. "By-Laws", means the by-laws of Towers Ten Condominium Association, Inc.

D. "Committee", means a group of board members, unit owners, or both, appointed by the Board, to take action on behalf of the Board or to make recommendations regarding the Association budget.

E. "Common Elements", means those portions of the Condominium Property which are not included within the Units including, but not limited to, the following:

1. Conduits, ducts, pipes, wiring and other facilities, for the furnishing of utility services to Units, or to the Common Elements which are situated within Units.

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2. An easement of support in every portion of a Unit which contributes to the support of the Building.

3. Tangible personal property and fixtures required for the furnishing of utilities and other services to more than (1) Unit or for the operation and maintenance of the Common Elements.

4. Garage area.

5. Pool area.

6. Assigned parking as shown on Exhibit 1.A appurtenant to each Unit as a Limited Common Element. Units formed by combining two or more units shall have all spaces assigned each component unit.

7. Hallways.

8. Elevators.

9. Grounds.

10. Sidwalks.

11. Exterior Parking.

12. Lobby.

13. Solarium.

14. Clubroom.

15. Fitness Facility.

F. "Common Expenses", means all costs and expenses properly incurred by the Association for the Condominium, including those expenses which are the subject of any special assessment made pursuant to this Declaration and the By-Laws including, but not limited to:

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1. Costs and expenses of administration and management of the Condominium Property.

2. Costs and expenses of maintenance, operation, repair or replacement of the Common Elements, including those costs and expenses which are the subject of any special assessment made by the Association pursuant to this Declaration and the By-Laws.

3. Costs and expenses of capital improvements and betterments and/or additions to the Common Elements, including such monies as may be required to fund such reserves for the making of such improvements and betterments and/or additions as the Association, acting by and through its Board of Directors, shall determine to establish and as may be required by law.

4. Costs of a duly franchised cable television service obtained pursuant to a bulk contract. The contract shall be for a term of not less than two (2) years, shall allow for cancellation by vote of a majority vote of unit owners at the first regular or special meeting after the effective date of the contract, and shall permit hearing impaired or legally blind unit owners to avoid assessment for costs.

5. Such other costs and expenses as may be declared to be Common Expenses by the provisions of the Florida Condominium Act as it may be amended from time to time, this Declaration or By-Laws of the Association.

6. Any valid charge against the Condominium Property as a whole.

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G. "Common Surplus", means the excess of all receipts of the Association including, but not limited to, assessments, rents, profits and revenues on account of the Common Elements, over and above the amount of Common Expenses.

H. "Condominium", means unless otherwise defined, Towers Ten.

I. "Condominium Parcel", means a Unit, together with its appurtenant undivided share in the Towers Ten Condominium Common Elements and such exclusive rights to use certain Limited Common Elements as may be appurtenant thereto.

J. "Condominium Property", means all of the lands which are hereby submitted or which may hereafter be submitted to condominium form of ownership under this Declaration of Condominium, whether or not contiguous, together with all improvements thereto and all easements and other rights appurtenant thereto.

K. "Division", means the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation, State of Florida.

L. "Limited Common Elements", means and includes those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of all other Units, provided all references to "Common Elements" in this Declaration or in the By-Laws shall be deemed to include all Limited Common Elements unless otherwise expressly indicated. Assigned underground parking and a balcony which is accessible by door from a Unit, shall be Limited Common Elements for the exclusive use of the Unit.

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M. "Management Agreement", means and refers to any agreement entered into by the Towers Ten Condominium Association pursuant to the By-Laws which provides for the management and operation of the Towers Ten Condominium property.

N. "Management Firm", means and refers to an entity identified as the Management Firm in a Management Agreement, its successors and assigns. The Management Firm shall be responsible for the management and operation of the Towers Ten Condominium property as provided in the Management Agreement and in these Articles.

O. "Person", means an individual, trust, estate, partnership, association, company, corporation, joint venture or any other legal entity.

P. "Substantial Destruction", means loss or damage whereby two-thirds or more of the total space contained in a Building is rendered untenable and such loss or damage cannot be repaired so as to render all of such space tenantable within six (6) months after the date of such loss or damage.

Q. "Unit", means that part of the Condominium Property situated within Towers Ten, which is subject to exclusive ownership and use by a Unit Owner. The horizontal and vertical limits of all Units are as follows:

1. the upper boundary shall be the horizontal plane which is coincident with the lower side of the unfinished concrete surface of the ceiling slab of the Unit;

2. the lower boundary shall be the horizontal plane which is coincident with the upper side of the unfinished concrete surface of the floor slab of the Unit;
3. the exterior boundaries shall be vertical planes which are coincident with the inner sides of the unfinished concrete or masonry surfaces of the exterior walls of the Unit;
4. the exterior plane of windows, doors and other connections between the Unit and the Common Elements, including the space which is physically occupied by windows and doors and such space as may lie between such exterior plane and the interior of the Unit, shall be part of the Unit.
5. Units shall also include all area encompassed within the lanai adjacent to the above boundaries.

R. "Unit Owner", means the record owner of a Condominium Parcel. The Developer shall be a Unit Owner so long as it shall own any Condominium Parcel or Parcels.

S. "Utility" and "Utility Services", shall mean and shall include, but not be limited to, electric power, gas, water, heating and air conditioning, garbage and sewage disposal, storm drainage, telephone and cable television facilities.

Unless the context otherwise requires, all other words and terms used in this Declaration shall have the meaning attributed to

them by the Florida Condominium Act in effect as of the date of this Declaration.

II. IDENTIFICATION OF UNITS AND DESCRIPTION OF IMPROVEMENTS

A. The improvements to be constructed within the land known as the "Condominium Property" hereby submitted to condominium form of ownership and described as "Towers Ten" in Exhibit 1.A hereto, which improvements have not been substantially completed, are as follows (upon substantial completion of all improvements to be made, an appropriate amendment to the Declaration with a Surveyor's Certificate annexed thereto shall be made and recorded as required by Section 718.104(4)(e), Florida Statutes):

1. TOWERS TEN: Towers Ten, consists of one building, nineteen stories tall, situated upon a two story garage of which one story is above ground and one story is underground. (Each Unit shall have appurtenant to it assigned underground parking, with accessibility consideration being given to handicapped or disabled Unit residents which shall be Limited Common Elements.) This building is of poured concrete construction and will have 114 dwelling Units, with 6 Units located on the third through twenty-second floors (There is no thirteenth floor). Each floor will have: two "A" units which are 3 bedroom, 3 bath units with a balcony and lanai/storage, with a total area

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of 2,475 square feet; two "B" units which are 4 bedroom, 3 bath units with a balcony and lanai/storage, with a total area of 2,575 square feet; and two "C" units which are 2 bedroom, 2 bath units with a balcony and lanai/storage, with a total area of 1,812 square feet. Each unit contains a lanai.

B. The Condominium Property consists primarily of the Units and other improvements described in Paragraph A above and described as Towers Ten in Exhibit 1.A hereto, and for purposes of identification, Units in the Building within the Condominium Property are given identifying numbers as set forth in Exhibit 1.A, annexed hereto and made a part hereof. No Unit bears the same identifying number as does any other Unit within the Condominium.

C. Developer may combine contiguous Units with other Units so long as Developer owns the affected Units and may make such changes with respect to the area and boundaries of the Common Elements as may be necessitated as a result of such combinations. Contiguous Units may be combined as stated herein, provided, however, that the number of Units and their appurtenant percentage of ownership as provided in the Declaration will not change. Developer may change the interior layout, design and arrangement of any Unit so long as Developer owns the Unit so changed. Any changes allowed in this subparagraph C. must be authorized by an amendment to this Declaration, signed and recorded, which requires

one hundred percent (100%) unit owner approval, in the manner set forth in Article XII.

D. The Developer reserves the right to assign parking spaces.

### III. UNIT APPURTENANCES

Fee title to each Condominium Parcel shall include both the Condominium Unit and an undivided interest in the Common Elements of the Condominium Property, the undivided interest for each Unit of the Condominium being the percentage set forth in Exhibit 1.D hereto, as same may in the future be amended as provided for in Article II hereof, said undivided interest in the Common Elements to be deemed conveyed or encumbered with its respective Condominium Unit. Any attempt to separate the fee title to a Condominium Unit from the undivided interest in the Common Elements appurtenant to each Unit shall be null and void. Also appurtenant to each Unit is an exclusive right to use certain Limited Common Elements as set forth in Paragraph L of Article I hereof, which right shall, however, be subject to such Rules and Regulations as may be adopted by the Board of Directors of the Association pursuant to its powers under the By-Laws.

The manner in which the ownership share of the common elements and the share of common expenses and common surpluses is assigned to each residential unit shall be based upon the total square footage of each residential unit in uniform relationship to the

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total square footage of each other residential unit in the condominium.

IV. EASEMENTS

The following easements are reserved in, over and through the Condominium Property:

A. The Developer reserves, for so long as it shall be entitled to elect a majority of Board of Directors of the Association, the right to grant such easements as it may deem necessary to entities furnishing utility or other services to the total Condominium Property.

B. In the event that there is, as a result of inadvertent variations in the original construction, or in reconstruction after a casualty of a Building, a physical encroachment by any Unit upon any part of the Common Elements or upon another Unit, other than an encroachment caused by the act of the Owner of the encroaching Unit, or in the event any part of the Common Elements shall encroach upon any Unit, an easement shall exist to the extent of such encroachment so long as the same shall exist.

C. An easement is reserved to the Developer in, over and through the Condominium Property to be exercised as may be required to enable the Developer to complete the making of all improvements to be made by the Developer within the Condominium Property and to effect the sale of all of the Units owned therein by the Developer. Neither the Unit Owners nor any Association, nor any person or entity using the Condominium Property, shall at any time or in any

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way interfere with the Developer's exercise of said easement rights.

D. A non-exclusive easement for ingress and egress over the streets, walks and other rights of way within the Condominium Property and which serve the Units is hereby reserved as necessary to provide access to public rights of way by the Unit Owners and Developer, and their respective invitees and licensees, as well as those streets, walks and right-of-ways that provide ingress and egress from the Condominium Property to South Atlantic Avenue.

V. COMMON EXPENSES AND COMMON SURPLUS

Each Unit Owner, including the Developer, except as otherwise provided, so long as it shall own any Units, shall be liable for a proportionate share of the Common Expenses, such share being identical to the undivided percentage share of each Unit Owner in the Common Elements. Each Unit Owner shall have an interest in the Common Surplus of the Association, such interest being identical to the undivided percentage share of each Unit Owner in the Common Elements. Such interest in the Common Surplus does not, however, include the right to withdraw or require payment or distribution of the common surplus, except as may otherwise be expressly provided for elsewhere therein.

VI. TOWERS TEN CONDOMINIUM ASSOCIATION

Every Unit Owner in Towers Ten Condominium Association, and no other persons, shall be a voting member of the Association.

The Association shall have all the powers and duties set forth in the Condominium Act, as well as all of the powers and duties granted or imposed by this Declaration, the Articles of Incorporation and its By-Laws, as amended from time to time.

When Unit Owners other than the Developer own 15% or more of the Units in a Condominium that will be operated ultimately by an Association, the Unit Owners other than the Developer shall be entitled to elect no less than one-third of the members of the Board of Directors of the Association. Unit Owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Directors of an Association:

A. Three years after 50% of the Units that will be operated ultimately by the Association have been conveyed to purchasers;

B. Three months after 90% of the Units that will be operated ultimately by the Association have been conveyed to purchasers;

C. When all the Units that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business; or

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

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E. Seven years after recordation of the declaration of condominium.

The Developer is entitled to elect at least one member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business at least 5% of the Units in the condominium operated by the Association. Following the time the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer-owned Units in the same manner as any other Unit Owner, except for purposes of reacquiring control of the Association or selecting the majority members of the Board of Directors.

VII. ASSESSMENTS

A. Notwithstanding any other provisions contained in this Article, in the event there are unsold Units owned by the Developer, the Developer shall be excused from the payment of the monthly assessments for Common Expenses for those unsold Units for a period of two (2) years from the date of recording of this Declaration of Condominium, or until all units owned by the Developer have sold and closed, whichever occurs sooner. During the period that the Developer is excused from the payment of said assessments, the Developer shall guarantee that the assessment for Common Expenses of the Condominium imposed upon Unit Owners other than the Developer shall not increase over \$214.21 for "A" Units, \$222.86 for "B" Units, and \$156.83 for "C" Units. In the event the amount of Common Expenses incurred during the Developer's guarantee

period exceeds the assessments collected at the guaranteed level from the other Unit Owners, the Developer shall contribute to the Association such additional sums necessary to pay for the Common Expenses. However, in no event shall the Developer be obligated to contribute funds to the Association for capital improvements or other expenses which are not identified as line items under Common Expenses in the annual budget. Upon the expiration of the Developer's guarantee period, the Developer may extend the guarantee above for two additional one-year periods, and upon expiration of all such periods, shall contribute to the Common Expenses, as to the Units owned by it, in the same manner as all other Unit Owners.

B. The Board of Directors of the Association shall fix and determine from time to time the sum or sums of money necessary and adequate to provide for the Common Expenses and shall assess the Unit Owners for said sums. The procedure for the making and collection of such assessments shall be set forth in the By-Laws of the Association. All assessments, including special assessments made pursuant to the provisions of this Declaration and in accordance with the By-Laws, shall be the personal obligation of each Unit Owner, and each Unit Owner, regardless of how his title is acquired, including a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the Unit Owner, including interest thereon, as hereinafter provided, and all costs incident to the collection thereof, including attorney's fees. In case of a voluntary conveyance of title to a Unit, the grantee

shall be jointly and severally liable with the grantor for the Unit's share of all unpaid assessments accrued prior to the date of conveyance, without prejudice to any right the grantee may have to recover from the grantor amounts paid by the grantee by way of assessments which were due and payable at the time of conveyance.

Regular monthly assessments for Common Expenses shall be due and payable quarterly on the first of each quarter. Bills for regular assessments shall not be required to be mailed or delivered to Unit Owners unless otherwise provided in the By-Laws. Liability for assessments for each Condominium Parcel shall commence upon the recordation of the Declaration of Condominium.

Any special assessment which shall be made by the Board of Directors of the Association pursuant to and in accordance with this Declaration or the By-Laws, shall be imposed only pursuant to written notice to all Unit Owners setting forth the specific purpose or purposes of such special assessment, which notice shall be sent at least thirty (30) days prior to the meeting at which such assessment is to be approved. The funds collected pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in said notice or shall be returned to the Unit Owners provided, however, that upon satisfaction of such purpose or purposes, any excess funds shall be considered Common Surplus.

Any regular or special assessment not paid within thirty (30) days after same shall be due and payable and shall bear interest at the rate of 18% per year, or at the maximum rate permitted by law, whichever shall be less, from the date when due until paid,

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together with a late charge in the amount of \$25.00 for each delinquent installment that the payment is late. All payments on account shall be first applied to interest, then to late charges, then to any costs or attorneys' fees incurred in the collection and then to the assessment payment first due. In addition, if so provided in the By-Laws, the Board of Directors may, in its discretion, accelerate assessment installments which are payable by a Unit Owner during a fiscal year, if such Owner is in default in the payment when due of any installment payable during such year. The Association cannot accelerate assessments more than one quarter unless a Claim of Lien is filed as provided by statute.

C. The Association shall have a lien against each Condominium Parcel for any unpaid assessments, including special assessments, and for interest accruing thereon, which lien shall also secure reasonable attorney's fees and costs incurred by the Association incident to the collection of any such assessment or enforcement of such lien, whether or not legal proceedings are initiated. The lien is effective from the date the Declaration of Condominium is recorded, and after recording of a claim of lien in the Public Records of Volusia County, Florida, setting forth the description of the Condominium Parcel, the name of the record Unit Owner, the name and address of the Association, the amount due and the due dates. Such lien shall continue for the maximum period permitted by law and until all sums secured by it, together with all costs incurred in recording and enforcing said lien, shall have been paid. The Association may bring an action in its name to

foreclose said lien in accordance with the procedure set forth in Section 718.116, Florida Statutes, or it may bring an action to recover a money judgement for the unpaid assessments, together with interest, costs and reasonable attorneys' fees, without waiving any lien claim.

The assessment lien hereinabove provided for shall be subordinate to the lien of any first mortgage of record now or hereafter placed upon any Condominium Parcel, provided that any such mortgage is recorded prior to the recording of the Association's claim of lien.

D. When the mortgagee of a first mortgage of record or other purchaser of a Condominium Parcel obtains title to the Condominium Parcel as a result of foreclosure of the first mortgage or as a result of a deed given in lieu of foreclosure of such a mortgage, such person or entity shall be liable for the unpaid assessments for Common Expenses attributable to the Condominium Parcel or chargeable to the former Unit Owner of the Condominium Parcel which became due prior to acquisition of title as a result of the foreclosure or as a result of a deed given in lieu of foreclosure as aforesaid. Liability shall not exceed six months' assessments accrued before acquisition of title to the unit by the mortgagee, or one per cent (1%) of the original mortgage debt, whichever is less. Liability does not commence until 30 days after the mortgagee received the last payment of principal or interest. Such unpaid assessments are collectible as Common Expenses from all of the Unit Owners, including such acquirer, his heirs, successors and assigns. A first mortgagee acquiring title to a Condominium Parcel

as a result of foreclosure or a deed in lieu of foreclosure aforesaid, may not during the period of his or its ownership of such a Condominium Parcel, whether or not such Condominium Parcel is occupied, be excused from the payment of any assessments for Common Expenses, including special assessments, coming due during the period of his ownership.

E. The liability of each purchaser of a Condominium Parcel from the Developer for the payment of assessments for Common Expenses shall commence on the date of his acquisition of title. The first regular assessment for Common Expenses shall be made by the Association's Board of Directors to be effective no later than the first day of the next billing quarter succeeding the date of closing of title of the first Condominium Parcel purchase. Each such purchaser shall be liable for his prorated share of the assessment for Common Expenses for the quarter during which he acquired title.

F. Each purchaser of a Condominium Parcel from the Developer shall pay to the Association at the time of closing of title a non-refundable amount equal to his share of the first three regular monthly assessments for Common Expenses for which he will be liable as aforesaid, which amount shall be deposited by the Association in its working capital fund. This amount is in addition to, and not in lieu of, the regular monthly maintenance assessments for the first three (3) months of ownership.

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VIII. MAINTENANCE OF AND ALTERATIONS AND ADDITIONS TO CONDOMINIUM PROPERTY

Responsibility for the maintenance, repair and replacement of the Condominium Property and restrictions upon changes, improvements and additions thereto shall be as follows:

A. The Association shall be responsible for the maintenance, repair and replacement of the Common Elements and Limited Common Elements, and shall perform said responsibilities to maintain the standard of care and appearance established by the Developer. The Association shall further be responsible for all incidental damage to a Unit by reason of any maintenance, repair or replacement work performed by the Association pursuant to the obligations hereinabove set forth. All costs and expenses incurred by the Association in connection with its performance of such work shall be Common Expenses of the Association members.

B. The Condominium Association shall be required to contract with a single Manager or Management Firm for the provision of operation and maintenance services for all Common Elements of the Condominium Association. The Association shall have the sole right to select such Manager or Management Firm, and shall have the responsibility to negotiate services to be performed by the management entity.

C. The contract for management services shall be in writing, and shall contain all items required by Fla.Stat. §718.3025. Contracts for other products and services shall be in writing, and those requiring payment in the aggregate by the Association in excess of 5% of the total annual budget of the Association,

including reserves, shall be awarded by competitive bid, excepting those contracts with attorneys, accountants, and employees of the Association. The provisions in this sub-paragraph can be suspended or abolished by a vote approved by two-thirds of unit owners. Such a vote may be accomplished by use of limited proxy. Renewals of contracts awarded by competitive bid which permit cancellation by the Board on 30-day Notice are exempt from competitive bid requirements. A competitive bid contract for management of the Association may be made for periods up to 3 years.

D. No director, officer, manager, or employee of the Association shall accept any gratuity from a person providing goods or services to the Association.

E. Each Unit Owner shall, at his own cost and expense, be responsible for the maintenance, repair and replacement of his Unit and of all improvements and personal property contained therein, except as may otherwise be expressly provided for in this Declaration, including, but not limited to, maintenance, repair and replacement of all finished surfaces of the Unit, fixtures, mechanical and electrical equipment such as heating and air conditioning systems, exterior glass doors and windows (including panes), and all other property not constituting part of the Common Elements. Whenever any maintenance, repair or replacement work for which a Unit Owner is responsible is necessitated as a result of loss or damage which is covered by insurance maintained by the Association, the proceeds of such insurance which are made available by the Association shall be used for the purpose of any

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such maintenance, repair or replacement, except that the Unit Owner shall be required to pay such part of the cost of such maintenance, repair or replacement that, by reason of the applicability of any deductibility provision of such insurance, exceeds the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

F. Except as otherwise provided herein, the Association shall have the right to make, or cause to be made, such changes, improvements and additions to its Common Elements as it deems necessary and desirable, but only upon an affirmative vote of 75% of the total membership of the Association's Board. The cost of such changes, improvements and additions shall be Common Expense of the Association, as shall be appropriate. Notwithstanding the foregoing, the Association shall not make, or cause to be made, any changes, improvements or additions to its Common Elements which would result in the partial or total enclosure of any part or all of any balcony which would result in a change in the appearance of the Tower materially different from its appearance as originally constructed. This paragraph shall not be construed so as to in any way limit or restrict the rights vested in Developer under the provisions of Article II hereof. - -

G. Except as otherwise provided herein, a Unit Owner may at his own cost and expense, make such changes, improvements and additions within his Unit as he may deem desirable, provided that no Unit Owner shall make any change, improvement or addition to any portion of his Unit which the Association is required to maintain,

repair or replace pursuant to the provisions of paragraph A above, or to exterior glass windows or doors, other than replacement in kind, or to any Limited Common Elements, without the written consent of the Board of Directors, which prohibition shall extend to, but not be limited to, any change, improvement or addition which would result in the partial or total enclosure of any part or all of any balcony or lanai. A Unit Owner shall be required to undertake the duty to maintain, repair and replace any improvement installed by the Unit Owner that is permitted pursuant to this Section.

H. No Unit Owner may replace or remove any fixture which was included as original equipment in his Unit if the likely result of his doing so would be an increase in his water consumption.

#### IX. USE AND OCCUPANCY OF CONDOMINIUM PROPERTY

The use of the Condominium Property shall be in accordance with the following restrictions as long as the Condominium exists.

A. Each of the Units shall be used and occupied only as a single family residential dwelling by the Unit Owner, members of his family, his guests, invitees, and lessees and, in the case of lessees, their families, guests and invitees. No Unit may be occupied by more than eight (8) persons at one time. No Unit may be subdivided into a smaller Unit or combined with any other Unit Owner other than subdivisions and combinations made by the Developer permitted under the provisions of this Declaration. Notwithstanding the foregoing, so long as the Developer owns a

Unit, the Developer and its agents may utilize a Unit or Units for a sales office, a model Unit or any other lawful purpose.

B. Every Unit Owner shall keep and maintain his Unit and those portions of the Common Elements for which he has any obligation to maintain or repair under the provisions of Article VIII hereof in good order, condition and repair and shall perform promptly all maintenance and repairs within his Unit as may be necessary to avoid damage to or other adverse impacts upon other Units or the Common Elements. Each Unit Owner shall promptly report to the Association the need for any repair or maintenance work for which the Association is responsible under this Declaration.

C. No Unit Owner shall: (1) permit or suffer anything to be done or kept in his Unit which will increase casualty or liability insurance rates applicable to the Condominium Property, or which will in any way obstruct or interfere with the rights of other Unit Owners or annoy them by producing excessive noise or otherwise, nor (2) commit or permit any nuisance or illegal acts in or about the Condominium Property; (3) cause anything to be affixed or attached to, hung, displayed or placed, on the exterior walls, doors or windows of the Unit or the Common Elements, including Limited Common Elements, except as approved by the Board of Directors, nor shall he cause any type of ground coverage to be installed or grow any type of plant, shrubbery, flower, vine or grass outside the Unit, nor shall he cause awnings or storm shutters, enclosures or the like or clothes lines to be affixed or attached to his Unit or

Common Elements, including Limited Common Elements, nor shall he store any furniture or equipment within Limited Common Elements, except that the uses prohibited by this subparagraph (3) may hereafter be permitted if so provided in the Rules and Regulations adopted by the Association Board of Directors, as may be amended from time to time; (4) install, maintain or use any gas or charcoal cooking devices on lanais or within Limited Common Elements.

D. Pets may be maintained or kept in any Unit, such as dogs, cats, tropical fish and birds provided that same are not kept, bred or maintained for any commercial use, as specifically provided for and authorized by the Rules and Regulations of the Association as they may from time to time be adopted or amended. Said rules and regulations may specifically provide for reasonable controls on the size, number and adverse impacts of the maintenance of pets, provided that if a Rule or Regulation in effect at the time of a Unit Owner's purchase of a Unit permits maintaining of a pet of a kind then owned by such Unit Owner, no subsequent amendment to such Rule or Regulation which would prohibit the maintenance of such pet shall apply to such Owner during the life of that pet. Any pet leaving a Unit shall be adequately contained or leashed while in the Common Elements, and the Unit Owner shall be responsible for any damage caused by his pet to a Common Element.

E. Each Unit Owner, including Developer, may lease ("lease", as used herein, shall include rentals without a written agreement) his Unit upon such terms and conditions as he may desire, subject to the following restrictions, provided that no such lease shall be

for a term of not less than two (2) weeks and provided, further, that the lease of a Unit shall not discharge the Unit Owner from compliance with any of his obligations and duties as a Unit Owner, including responsibility for compliance by his lessee and said lessee's family and invitees with all of the provisions of this Article IX. All of the terms and provisions of the Declaration, By-Laws, and the Rules and Regulations of the Association pertaining to use and occupancy of the Units and Common Elements shall apply to and shall be enforceable against any person occupying a Unit as a lessee or invitee to the same extent as if he were the Unit Owner, and a covenant upon the part of each such lessee to comply with such terms and provisions shall be implied in any agreement, written or oral, entered into between a Unit Owner and a lessee for occupancy of a Unit. - The form of any lease entered into by a Unit Owner and his tenant must be approved by the Association Board of Directors, and must contain language permitting cancellation of the lease by the Association in the event the tenant violates any of the terms of the condominium documents.

Subject to the foregoing restrictions, Developer reserves the right to lease any Unit prior to the sale or to sell a Unit that is subject to a lease.

F. No "For Sale" or "For Rent" signs or any other type of sign or other displays or advertising shall be maintained on any part of the Common Elements or the Units, except for identification signs located on the exterior of the Building or signs which are

located within the interior of the Building not visible to view from the exterior of the Building, except that the right is specifically reserved to the Developer to post and maintain "For Sale" or "For Rent" signs in connection with any unsold or unoccupied Units it may own.

G. No trucks or other commercial vehicles, boats, house trailers, boat trailers, jet ski trailers, motorcycle trailers, mobile homes, campers or trailers of any description shall be parked in any parking space except with the written consent of the Board of Directors of the Association. This prohibition of parking shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up, delivery and such other services as may be necessary for the maintenance and use of the Units and Common Elements, provided that such use shall be subject to Rules and Regulations adopted by the Board of Directors of the Association.

H. Rules and Regulations governing the use of the Condominium Property shall be made by and may be amended from time to time by the Board of Directors of the Association in the manner provided in the By-Laws. Copies of such Rules and Regulations and amendments thereto shall be furnished by the Association to all Unit Owners and their lessees upon request.

I. Until such time as Developer has completed all improvements within the Condominium Property which are provided for in this Declaration and sold all Units intended to be sold, neither the Unit Owners nor the directors, officers, employees or agents of

the Association, nor any person using the Condominium Property, shall in any way interfere with Developer's completion of such improvements or the sale of Units. In addition, all vehicles shall be exempt from any parking rules, regulations and restrictions which may be contained in this Declaration or which have been adopted by the Board of Directors of the Association if those vehicles are engaged in any activity related to construction, maintenance or sales of any part of the Condominium Property.

X. INSURANCE

A. The Board of Directors of the Association shall obtain public liability and property damage insurance covering all the Condominium Property, and insuring the Association and the Unit Owners, as its and their interests appear, in such amounts and providing such coverage as the Board of Directors of the Association may, in its discretion, determine to be necessary and desirable for the protection of the Association and the Unit Owners. Premiums for the payment of such insurance shall be paid by the Association and shall be a Common Expense. Unit Owners shall be responsible, at their own cost and expense, to obtain insurance coverage for their personal liability with respect to risks associated with the use and occupancy of their Units.

B. The Association shall obtain insurance coverage for fire, with extended coverage, vandalism and malicious mischief, in All-Risk or such other form as it may deem desirable, insuring all of the insurable improvements within the Condominium Property and

property owned by the Association, together with such other insurance as the Association may from time to time deem necessary and desirable in and for the interest of the Association and the Unit Owners and their first mortgages of record, as their interests may appear, coverages to be in amounts which shall, to the extent such coverage is available at reasonable rates, be equal to 100% of replacement cost as determined annually by the Association's Board of Directors. All premiums for such coverage and other costs and expenses which are incurred in connection with obtaining and maintaining such insurance shall be a Common Expense. The named insured shall be the Association, individually and as agent for the Unit Owners and their respective first mortgagees without naming any of them. Provisions shall be made for the issuance of mortgagee endorsements and memoranda of insurance to mortgagees. Such insurance will not cover Unit Owners' personal property, fixtures or floor, wall or ceiling surfaces or surface coverings, or electrical fixtures, appliances, air conditioning or heating equipment, water heaters, or built-in cabinets located within the Units, it being the responsibility of the Unit Owners to obtain insurance covering such property at their own cost and expense.

1. All casualty insurance policies purchased by the Association, shall be for the benefit of and made payable to the Association and all Unit Owners and their first mortgagees of record, as their interests may appear. Such policies shall be deposited with the Association, subject to inspection by the Unit Owners and their first mortgagees during normal business hours, and

any proceeds thereof will be held by the Association in accordance with the terms hereof. Said policies shall provide that all insurance proceeds payable on account of covered loss or damage shall be payable to the Association. It shall be the duty of the Association to receive such proceeds as are paid and to hold the same in trust for the purposes hereinafter set forth for the benefit of the Association and the Unit Owners and their respective first mortgagees of record. Notwithstanding the foregoing, no first mortgagee of record or any other mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged Condominium Property shall be reconstructed or repaired.

2. The proceeds of a casualty insurance policy received by the Association shall be distributed to or for the benefit of the beneficial owners, and expended or disbursed in the following manner:

(a) If the loss or damage for which the proceeds were paid is to be repaired or reconstructed, as hereinafter provided, the proceeds shall be paid to defray the cost and expense thereof, including the cost and expense of repairing or reconstructing individual Units to the extent that the policy and the proceeds thereof cover such cost and expense. Any proceeds remaining after defraying such cost and expense shall be deemed Common Surplus.

(b) In the event of loss or damage to personal property owned by the Association which is covered by the aforesaid

policy, and should the Board of Directors of the Association determine not to repair or replace such personal property, the proceeds shall be deemed Common Surplus.

(c) If it is determined, in the manner hereinafter provided, that the loss or damage for which said proceeds are paid constitutes Substantial Destruction and shall not be repaired or reconstructed, the proceeds shall be disbursed to the beneficial Owners within Towers Ten in shares which are proportionate to their respective percentage interests in the Common Elements, remittances to be to such Unit Owners and their first mortgagees of record, jointly, and, as between them, distributed pursuant to the terms of the mortgage, all such distributions to be in accordance with applicable requirements of law and the insurance policies pursuant to which payment is made. This is a covenant for the benefit of any first mortgagee of record of a Unit and may be enforced by such first mortgagee. In the event of loss or damage to personal property owned by the Association which is covered by the aforesaid policy, and should the Board of Directors of the Association determine not to repair or replace such personal property, the proceeds shall be deemed Common Surplus.

3. Where loss or damage occurs within a Unit or Units, or to the Common Elements, or to any Unit or Units and the Common Elements, but said loss or damage is less than Substantial Destruction, it shall be obligatory upon the Association and/or the affected Unit Owners to repair or reconstruct the damage caused by said loss or damage. In the event of such loss or damage to the

Common Elements, the Board of Directors of the Association shall promptly obtain reliable and detailed estimates of the cost and expense of repair or reconstruction and, after obtaining the same, the Association shall promptly contract for the repair or reconstruction of such loss or damage, and no first mortgagee of record or any other mortgagee shall have the right to require the application of insurance proceeds for any other purpose.

If the proceeds of insurance are not sufficient to defray the estimated cost and expense of repair or reconstruction, or if at any time during repair or reconstruction, or upon completion of repair or reconstruction, the funds for payment of the cost and expense of repair or reconstruction are insufficient, a special assessment shall be made by the Board of Directors of the Association as a common expense against all Unit Owners according to each Unit Owner's proportional share for the excess costs and expenses of repairing or reconstructing damage to the Common Elements within the Building.

4. Should Substantial Destruction occur, then the Board of Directors of the Association shall promptly obtain reliable and detailed estimates of the cost and expense of repair or reconstruction and shall thereafter ascertain as promptly as possible the net amount of insurance proceeds available for reconstruction and the estimated amount of any special assessment(s) which will be required to defray estimated excess cost and expense, any such special assessment to be apportioned in the manner set forth in subparagraph 3 of this paragraph B.

Thereupon, a special meeting of the Owners of Units in Towers Ten shall be called by the Board of Directors, to be held not later than sixty days (60) after the casualty, for the purpose of determining whether or not such loss or damage shall be repaired, or whether or not the Condominium should be terminated in accordance with the provisions of applicable law. Unless three-fourths (75%) of the total number of Unit Owners in Towers Ten shall vote not to repair or reconstruct such loss or damage, the Board of Directors of the Association and the affected Unit Owners shall, as soon as practicable thereafter, proceed to contract for the performance of the required repairs or reconstruction in accordance with the provisions of subparagraph B.3. of this Article X as if such loss or damage constituted less than Substantial Destruction. If three-fourths of said Unit Owners in Towers Ten shall vote not to repair or reconstruct such loss or damage, the available insurance proceeds shall be distributed in accordance with the provisions of subparagraph 2 of paragraph B. of this Article X. The Board of Directors of the Association shall determine whether or not loss or damage constitutes "Substantial Destruction", as such term is defined in this Declaration, and its decision shall be binding and conclusive upon all Unit Owners and their respective mortgagees.

5. All repairs and reconstruction to Condominium Property which are made pursuant to this Article X shall be substantially in accordance with the plans and specifications for the original Building, or as the Building was last repaired or

reconstructed, unless otherwise agreed to by all affected Unit Owners.

6. The Association is hereby irrevocably appointed agent for each Unit Owner for the purpose of compromising and settling claims arising under insurance policies purchased by the Association and to execute and deliver releases therefor upon the payment of claims, such appointment to be binding on all mortgagees.

C. Policies of workers' compensation insurance shall be obtained to meet the requirements of law.

D. - The Association is authorized to obtain such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable. The Board of Directors of the Association is further authorized to agree to the inclusion of such deductible clauses as the Board of Directors shall determine to be desirable in any insurance policy which it obtains pursuant to foregoing requirements.

E. Insurance companies authorized to do business in the State of Florida shall be conclusively presumed to be good and responsible companies, and the Board of Directors of the Association is hereby authorized to enter into insurance contracts with any insurance companies so qualified.