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**DECLARATION OF CONDOMINIUM**

The undersigned, being the holder of title of record to the real property situate, lying and being in Miami-Dade County, Florida, the legal description of which is attached hereto, and made a part hereof, and labeled EXHIBIT 1, hereby states and declares that the land described on EXHIBIT 1 is submitted to condominium ownership, and declared to be a condominium known as **BAY HARBOR CLUB CONDOMINIUM**, pursuant to Chapter 718, Florida Statutes, as amended from time to time (hereinafter referred to as the "Condominium Act"), the provisions of which act are hereby incorporated by reference, and included herein.

All the restrictions, reservations, covenants, conditions and easements contained herein shall constitute covenants running with the land or equitable servitudes upon the land, as the case may be, and shall run perpetually unless terminated or amended as provided herein, and shall be binding upon all unit owners as hereinafter defined, and in consideration of receiving and by acceptance of a grant, devise or mortgage, all grantees, devisees or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions hereof, as well as by the by-laws and articles of incorporation of the association. Both the burdens imposed and the benefits provided shall run with each unit and the interests in common property as defined herein.

The real property submitted to condominium ownership herewith is subject to conditions, limitations, restrictions, reservations or record, real estate taxes and applicable zoning ordinances.

**ARTICLE I - DEFINITIONS**

Definitions of terms used herein are as follows:

- a) "Articles" means the Articles of Incorporation of the association.
- b) "Assessment" means a share of the funds required for the payment of common expenses, which from time to time is assessed against the Unit Owner.
- c) "Association" means the entity responsible for the operation of the condominium and such entity shall, for the purpose of this condominium be **BAY HARBOR CLUB ASSOCIATION, INC.**, a Florida non-for-profit corporation.

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d) "Association Property" means the property, real and personal in which title or ownership is vested in the Association for use and benefit of its members.

e) "Board of Directors" means the board of administration or other representative body responsible for administration of the association.

f) "Building" means the structure situated on the condominium property on which units are located.

g) "By-Laws" mean the by-laws of the Association existing from time to time.

h) "Common Elements" means the portions of the condominium property not included in the individual units. Common Elements includes:

(i) Easements through the Units for conduits, pipe ducts, plumbing, wiring and other facilities for the furnishing of cable TV and utility service to Units and Common Elements as well as the conduits, pipe ducts, plumbing, wiring and other facilities themselves; and

(ii) Easements of support in every part of each Unit which contributes to the support of the improvements.

(iii) The term Common Elements when used throughout this Declaration, shall also include Limited Common Elements and Recreational Facilities, as defined in the Condominium Act. The term Common Elements does not include conduits, pipe, ducts, plumbing, wiring, air conditioning equipment or other facilities which service or apply to only one unit although same may be located in the Common Elements.

i) "Common Expenses" means all expenses properly incurred by the Association in the performance of its duties, including expenses specified in Section 718.115 of the Florida Statutes.

j). "Common Surplus" means the excess of all receipts of the Association, including but not limited to assessments, rents, profits and revenues which exceed Common Expenses.

k) "Condominium Parcel" means a unit, together with the undivided share in the Common Elements which is appurtenant to the unit.

l) "Condominium" or "Condominium Property" means the lands, leaseholds, and personal property that are subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.

m) "Corporation" means the Association as defined above. Corporation and Association may be interchangeable and shall have the equivalent definition.

n) "Declaration" or "Declaration of Condominium" means the instrument or instruments by which this Condominium is created, as they are from time to time amended.

o) "Developer" means BH Developers, LLC, a Florida limited liability company, its successors and assigns.

p) "Institutional Mortgagee" means a bank, savings and loan association, insurance company or union pension fund authorized to do business in the United States of America, an agency of the United States Government, a real estate investment trust, or a lender generally recognized in the community as an institutional type lender. The mortgage may be placed through a mortgage or title company.

q) "Limited Common Elements" means those Common Elements which are reserved for the use of a certain unit or units, to the exclusion of other units as specified in this Declaration.

r) "Operation" or "Operation of the Condominium" includes the administration and management of the Condominium Property.

s) "Unit" means those parcels of the Condominium Property designated on the exhibits attached to the Declaration which are subject to exclusive ownership.

t) "Unit Owner" or "Owner of a Unit" or "Member" means the owner of a Condominium Parcel.

u) "Utility Service" as used in this Declaration and the By-Laws attached hereto may include but shall not be limited to electric power, gas, hot and cold water, heating, refrigeration, air conditioning, garbage and sewage disposal, telephone and cable television service.

Whenever the context and facts permit, the use of the singular shall include the plural and the plural shall include the singular and the use of any gender shall be deemed to include all genders.

## **ARTICLE II - SURVEY AND DESCRIPTION OF IMPROVEMENTS**

Attached hereto and made a part hereof as EXHIBIT 2 is a survey and graphic description of the land and plot plans of the improvements constituting the Condominium, identifying the Condominium Units, the Common Elements and the Limited Common Elements, their respective location and approximate dimensions. The improvements on the land described will consist of 42 residential Units and the Common Elements depicted therein.

### **a) Identification of Units:**

Each Unit is identified by a number. Two units may have the same letter but shall be differentiated by their floor location and number. Similarly, each area constituting a Limited Common Element is identified by designation on said EXHIBIT 2. The specific designation

assigned to each Limited Common Element is the same designation which has been assigned to the Unit to which each such Limited Common Element is appurtenant, so that by examining EXHIBIT 2, the size identification and location of each Unit, the Limited Common Element appurtenant to the Unit, and the Common Elements can be readily ascertained.

b) Unit Boundaries. Each unit shall include that part of the Building containing the Unit that lies within the following boundaries:

(i) Upper and Lower Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the perimetrical boundaries:

(1) Upper Boundaries. The horizontal plane of the unfinished lower surface of the ceiling.

(2) Lower Boundaries. The horizontal plane of the unfinished upper surface of the floor of the Unit.

(ii) Perimetrical Boundaries. The perimetrical boundaries of the Unit shall be the vertical planes of the unfinished interior surfaces of the walls bounding the Unit extended to their planar intersections with each other and with the upper and lower boundaries.

(iii) Apertures. Where there are apertures in any boundary, including but not limited to windows, doors, and sliding glass doors, such boundaries shall be extended to include the windows, doors and other fixtures located in such apertures, including all frameworks, window casings and weather stripping thereof, together with exterior surfaces made of glass or other transparent materials; provided, however, that the exteriors of doors facing interior Common Element hallways shall not be included in the boundaries of the Unit and shall therefore be Common Elements.

(iv) Exceptions. In cases not specifically covered above, and/or in any case of conflict or ambiguity, the survey of the Units set forth as EXHIBIT 2 hereto shall control in determining the boundaries of a Unit, except that the provisions of subsection (c), immediately below, shall control unless specifically depicted and labeled otherwise on such survey.

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

(i) Patios, Balconies, Lobbies and Terraces. Any patio, balcony, lobby or terrace (and all improvements thereto) as to which direct and exclusive access shall be afforded to any particular Unit or Units to the exclusion of others shall be a Limited Common Element of such Unit(s). Further, Developer hereby reserves the right to assign, with or without consideration, the exclusive right to use any parking space, storage locker, or other space located within the Common Elements of the Condominium to one or more Units, whereupon the space so assigned shall be deemed a Limited Common Element of the Unit(s) to which it is assigned. Such assignment shall not be recorded in the Public Records of the Miami-County but, rather,

shall be made by way of instrument placed in the official records of the Association. The Association shall be responsible for the maintenance, repair, and replacement of such Limited Common Elements, the cost of same being a part of the Common Expenses. Each Unit Owner shall, however, be responsible for the general cleaning, care and upkeep of the appearance of the area(s). A Unit Owner making or causing to be made any additions, alterations or improvements agrees, and shall be deemed to have agreed for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, the Developer and all other Unit Owners harmless from and to indemnify them for any liability or damage to the Condominium and/or Association Property and expenses arising therefrom.

(ii) Parking Spaces. Each parking space shown on EXHIBIT 2 hereto shall be a Limited Common Element only upon it being assigned as such to a particular Unit in the manner described herein. During the time the Developer holds units for sale in the ordinary course of business or has relinquished control of the Association, whichever is later, Developer hereby reserves the right to assign, with or without consideration, the exclusive right to use any parking space located within the Common Elements of the Condominium to one or more Units, whereupon the space so assigned shall be deemed a Limited Common Element of the Unit(s) to which it is assigned. Such assignment shall not be recorded in the Public Records of the Miami-Dade County, but, rather, shall be made by way of instrument placed in the Official Records of the Association.

### **ARTICLE III - OWNERSHIP, SHARE OF COMMON ELEMENTS, ALLOCATION OF COMMON EXPENSES AND COMMON SURPLUS**

A. The fee title to each Condominium Parcel shall include both the Unit and the undivided interest in the Common Elements, said undivided interest in the Common Elements to be deemed to be conveyed or encumbered with its respective Unit. Any attempt to separate the fee title to a Unit from the undivided interest in the Common Elements appurtenant to each Unit shall be null and void.

B. Each of the Unit Owners of the Condominium shall own an undivided interest in the Common Elements and Limited Common Elements, and the undivided interest of such ownership in the said Common Elements and Limited Common Elements is the fraction or percentage as set forth on EXHIBIT 3 which is attached to this Declaration and made a part hereof.

C. The Common Expenses and the Common Surplus of the Condominium shall be shared by the Unit Owners as specified and set forth in EXHIBIT 3.

D. Any expense for the maintenance, repair or replacement relating to Limited Common Elements shall be paid by the Unit Owner having exclusive use of such Limited Common Element. The Unit Owner shall be responsible for all damages and costs should maintenance, repair or replacement of any Common Element be necessitated by the negligence or misuse by a Unit Owner, his family, guests, servants and/or invitees.

## ARTICLE IV - EASEMENTS

A. Perpetual Non-Exclusive Easement in Common Elements/Condominium Property. The Common Elements and the Condominium Property shall be, and the same are hereby declared to be, subject to a perpetual non-exclusive easement which is hereby created in favor of all of the Unit Owners in this Condominium for the use and benefit of such Unit Owners and the use and benefit of their immediate families, guests and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which same are reasonably intended, including, without limitation, for purpose of ingress, egress, repair and maintenance, for use of recreational facilities, for installation of and maintenance of utility lines (such as water and sewer collection and distribution lines, electrical power transmission lines, telephone lines, cable television and other utility services and the like contained within the Common Elements). These easements shall run to the benefit of all Owners, guests and invitees at **BAY HARBOR CLUB CONDOMINIUM**. Notwithstanding the foregoing provisions, the Association shall have the right to establish the Rules and Regulations governing the use and enjoyment of all such Common Elements and pursuant to which the Owners of such Units may be entitled to utilize same. The Association may impose upon the Common Elements henceforth, and from time to time, such easement, licenses and cross-easements for any of the foregoing purposes as it deems to be in the best interest of, and necessary for, the uniform and proper operation of the Condominium.

B. Easement for Encroachments. In the event that any Unit shall encroach upon any Common Element for any reason not caused by the intentional or negligent act of any such Unit Owner or Owners or their agents, then an easement appurtenant to such Unit shall exist for the continuance of such encroachment into the Common Elements, for so long as such encroachment shall exist; and in the event that any portion of the Common Elements shall encroach upon any Unit, for any reason not caused by the intentional act of the Unit Owner or owners or their agents, then an easement shall exist for the continuance of such encroachment of the Common Elements into any Unit for so long as such encroachment shall naturally exist. In like manner, in the event that any Unit shall encroach upon any other Unit, an easement appurtenant to such encroaching Unit shall exist for the continuance of such encroachment into the neighboring Unit, for so long as such encroachment shall naturally exist.

C. Easement for Air Space/Support. The Owner of each Unit shall have an exclusive easement for the use of air space occupied by such Unit as such Unit exists at any particular time, and as said Unit may be lawfully altered or reconstructed from time to time. Further, each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.

D. Easement for the Public. An easement is created for pedestrian traffic over, through and across sidewalks, paths, walks, waterways and lanes as the same may from time to time exist upon the Common Elements, and for the vehicular traffic over, through and across such portion of the Common Elements as may from time to time be paved and intended for such purposes, but the same shall not include the Condominium Property except those areas specifically assigned for same.

E. Construction; Maintenance. The Developer (including its designees, successors and assigns) shall have the right in its sole discretion from time to time to enter the Condominium Property for the purpose of completing the construction thereof, provided same does not prevent the use by the Unit Owners of the Condominium Property.

F. Sales Activity. For as long as there are any unsold Units, the Developer, its successors and assigns, shall have the right to use any such Units and portions of the Common Elements for model Units and sales offices, to display model Units and the Common Elements to prospective purchasers, and to erect signs and other promotional material upon the Condominium Property.

## **ARTICLE V - NAME**

The name by which this Condominium is to be identified is:

**BAY HARBOR CLUB CONDOMINIUM**

## **ARTICLE VI - ADMINISTRATION OF CONDOMINIUM BY ASSOCIATION**

The Association shall be the entity responsible for the operation of the Condominium. A copy of the Articles, By-Laws and initial Rules and Regulations of the Association are attached hereto as EXHIBITS 4, 5 and 6, respectively. The powers and duties of the Association shall include those set forth in this Declaration, the By-Laws and Articles of Incorporation of the Association, as all may be amended from time to time. In addition, the Association shall have all the common law and statutory powers of a corporation not-for-profit under the laws of Florida and the powers and duties set forth in the Condominium Act. All of the powers and duties of the Association shall be exercised by the Board of Directors limited only to the extent when specific Owner approval is required by law, this Declaration, the By-Laws, or Articles of Incorporation. The powers and duties of the Association as exercised by the Board of Directors shall include but not be limited to the following:

- (a) The irrevocable right to have access to each Unit from time to time during reasonable hours when necessary for the maintenance, repair or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.
- (b) The power to determine the expenses required for the operation of the Association and to make and collect regular and special Assessments and other charges against Owners.
- (c) The duty to maintain accounting records according to good accounting practices, which shall be open for inspection by Owners or their authorized representatives at reasonable times upon prior request.

- (d) The power to adopt, amend and enforce rules and regulations concerning the details of the operation and use of the Units, the Common Elements and Association Property.
- (e) The power to charge a fee for the exclusive use of Common Elements or Association Property to any Owner being granted, by the Association, a right to such exclusive use.
- (f) The power to acquire title to property (including purchasing Units at a foreclosure sale); and to otherwise hold, regulate, administer, convey, lease, maintain, repair, replace and mortgage Association Property and Common Elements for the use and benefit of its members, including the right to grant, modify or move easements which are a part of or cross Association Property and Common Elements.
- (g) The power to institute, settle or appeal actions or hearings on behalf of all Owners.
- (h) The power to enter into bulk rate cable television contracts.
- (i) The power to contract with individuals or entities to operate various facilities or services upon portions of the Common Elements or Association Property.
- (j) The power to operate, maintain, repair and replace the Common Elements and the Association Property.
- (k) The power to employ, dismiss and contract with personnel and independent contractors necessary for the maintenance and operation of the Common Elements and the Association Property.
- (l) The power to maintain bank accounts on behalf of the Association and designating the signatories required therefor.
- (m) The power to obtain insurance for the Condominium and Association Property.
- (n) The power to make repairs, additions, and improvements to, or alterations of Common Elements and Association Property, and repairs to and restoration of Common Elements and Association Property, in accordance with the provisions of this Declaration after damage or destruction by fire or other event of damage, or as a result of condemnation or eminent domain proceedings or otherwise.
- (o) The power to levy fines against Owners and occupants for violations of the Association's governing documents, including but not limited to the rules and regulations.
- (p) The power to borrow money on behalf of the Association when required in

connection with the operation, care, upkeep and maintenance of the Common Elements and Association Property or for the acquisition of property, and granting mortgages on and/or security interests in Association owned property.

## **ARTICLE VII - MEMBERSHIP IN CORPORATION AND VOTING**

A. The Owner or Owners of a Unit shall automatically become members of the Association upon such Owner's acquisition of an ownership interest in any Unit and its appurtenant undivided interest in the Common Elements and Limited Common Elements, and the membership of such Owner or Owners in the Association shall terminate automatically upon such Owner or Owners being divested of such ownership interest and the title to such Unit, regardless of the means by which such ownership shall be divested. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Unit shall be entitled by virtue of such lien, mortgage or other encumbrance, to membership in the Association or to any of the rights or privileges of such membership.

B. Subject to the provisions and restrictions set forth in the By-Laws of the Association, each Unit Owner is entitled to one (1) vote for each Unit owned by him. Votes shall be cast in accordance with the provisions set forth in the By-Laws.

## **ARTICLE VIII - BY-LAWS**

The operation of the Association shall be governed by By-Laws which are annexed to this Declaration and labeled EXHIBIT 5 and incorporated herein by reference. The By-Laws shall be amended as provided therein.

## **ARTICLE IX - METHOD OF AMENDMENT**

A. General Amendments. Except for any alteration in the percentage of ownership in the Common Elements or alteration of the basis for apportionment of assessments, which may be levied by the Association in accordance with the provisions hereof, this Declaration may be amended in the following manner:

An amendment or amendments to this Declaration may be proposed by the Board of Directors of the Association acting upon a vote of the majority of the Directors, or by not less than one-third of the members of the Association, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to this Declaration being proposed by said Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the Association or other officer of the Association in the absence of the President, who shall thereupon include the proposed amendments for consideration in the Notice for the Annual Meeting, or call a Special Meeting of the Members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from receipt by him of the proposed amendment or amendments, and it shall be the duty of the Secretary to give to each member written or printed notice of such meeting, stating the time and place thereof, and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed not less than fourteen (14) days, nor more than sixty (60) days

before the date set for such meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail, addressed to the member at his Post Office address as it appears on the records of the Association, the postage thereon prepaid. At such meeting, the amendment or amendments proposed must be approved by an affirmative vote of a majority of the Unit Owners present at such meeting in person or by proxy in order for such amendment or amendments to become effective. Thereupon such amendment or amendments shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted, and, the original or an executed copy of such amendment or amendments so certified and executed with the same formalities as a Deed, shall be recorded in the Public Records of Miami-Dade County, Florida, such amendment or amendments to specifically refer to the recording data identifying this Declaration. At any meeting held to consider such amendment or amendments, the written vote of any Unit Owner shall be recognized if such Unit Owner is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting. Furthermore, no amendment to this Declaration shall be adopted which would operate to affect the validity or priority of any mortgage held by an Institutional Mortgagee or which would alter, amend or modify in any manner whatsoever, the rights, powers, and privileges granted and reserved herein in favor of the Developer or any Institutional Mortgagees without the consent of the Developer or all such Institutional Mortgagees, as the case may be.

B. Amendments with respect to percentage of ownership in Common Elements. No amendment to this Declaration, which shall purport to alter in any way the basis for apportionment of assessments, shall be adopted or shall become effective without the written consent, in recordable form, of all of the Unit Owners within this Condominium, and all of their respective mortgagees, first had and obtained, and then same shall not become effective until an instrument evidencing such written consent is recorded among the Public Records of Miami-Dade County, Florida.

## ARTICLE X - MAINTENANCE

A. All maintenance, repairs and replacements of, in or to any Unit and the Limited Common Elements appurtenant thereto, whether structural or non-structural, ordinary or extraordinary, including, but not limited to: maintenance, repair and replacement of screens, sliding glass doors, garage doors, motors and mechanisms, if applicable and windows (including the framing, caulking and hardware) the interior and exterior of the entrance door and all other doors within or affording access to a Unit (except for the painting of the exterior of any doors providing access to the Unit, or to the garage, if applicable, which shall be a common expense), and the electrical (including fixtures, dimmers, wiring and outlets), plumbing (including fixtures, pitch pans, and connections), heating and air-conditioning equipment (including compressors and condensers), all cabinetry and fixtures, appliances, carpets and other floor coverings, owned by the Owner of a Unit, all interior surfaces and wall coverings and the entire interior of the Unit lying within the boundaries of the Unit or the Limited Common Elements or other property belonging to the Owner, shall be performed by the Owner of such Unit at the Owner's sole cost and expense, except as may otherwise be expressly provided to the contrary herein. The Owner shall also maintain, repair and replace, at his sole, cost and expense, all hurricane shutter(s), including such portion of the Common Elements, if any, to which the hurricane shutters are

attached. The Owner shall be obligated to repair any equipment, fixtures, wiring, or other items of property which only serve the Owner's Unit without regard to whether such items are included within the boundaries of the Unit. Where a Limited Common Element consists of a terrace, balcony or roof area, the Owner who has the right to the exclusive use of said terrace, balcony, or roof area shall be responsible for the maintenance, painting, repair and replacement of the surfaces of all walls, floors and ceilings within said area. Any surfaces shall be painted in conformity with the color specifications promulgated by the Board of Directors from time to time.

B. Except to the extent expressly provided to the contrary herein, (i.e., as to Limited Common Elements, or fixtures, equipment or wiring located within the Common Elements which only serve an individual Unit) all maintenance, repairs and replacements in or to the Common Elements and Limited Common Elements shall be performed by the Association and the cost and expense thereof shall be charged to all Owners as a Common Expense. Provided, however, any expense or cost for maintenance, repairs and replacements in or to the Common Elements performed by the Association arising from or necessitated by the negligence, misuse or neglect of a specific Owner(s) shall be paid solely by such Owner(s).

C. In the event the Owner of a Unit fails to maintain or repair the Unit and Limited Common Elements as required herein or makes any unauthorized additions, alterations or improvements, the Association without waiving its right to pursue all rights and remedies provided for in this Declaration or by law, shall have the option to effectuate any such necessary maintenance or repairs or to remove any unauthorized additions, alterations or improvements and to charge the Owner for all costs incurred.

#### **ARTICLE XI - ENFORCEMENT OF MAINTENANCE FOR INDIVIDUAL UNITS**

In the event the Owner of a Unit fails to maintain such Unit or Limited Common Elements as required herein, or otherwise violates the provisions hereof, the Association or any other Unit Owner shall have the right to proceed in a court of competent jurisdiction to seek compliance with the provisions of this Declaration; or the Association shall have the right to do the necessary work to enforce compliance with the above provisions, at the Unit Owner's sole cost and expense.

#### **ARTICLE XII - LIENS AND ASSESSMENTS**

The Board of Directors shall prepare budgets for the Condominium's general expenses, determine the amount of Assessments payable by the Owners to meet the Common Expenses of the Condominium and allocate and assess such expenses among the Owners in accordance with the provisions of this Declaration and the By-Laws. Each budget shall include reserve accounts to the extent required by law unless waived or reduced by the Owners in accordance with the Condominium Act. Notice of the Board of Directors' meeting at which the budgets for the fiscal year will be adopted, along with copies of the proposed budgets, shall be furnished to all Owners at least fourteen (14) days prior to said meeting. The Board of Directors shall have the authority to amend the budgets from time to time or to impose special assessments if the operating budgets are insufficient to meet the actual expenses at any time. Incidental income to the Association, if

any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board of Directors shall determine from time to time, and need not be restricted or accumulated.

"Common Expenses", shall include all expenses and assessments properly incurred by the Association, including, but not limited to: (1) expenses of administration and management of the Association; (2) expenses of maintenance, operation, protection, repair and replacement of the Common Elements and Association Property, including, but not limited to, the costs for additions, alterations and improvements effectuated in accordance with the provisions of this Declaration; (3) expenses declared Common Expenses by the provisions of this Declaration, the By-Laws and the Condominium Act; (4) any valid charge against the Condominium as a whole; (5) the costs of carrying out the powers and duties of the Association; (6) the costs of operating or subsidizing facilities, amenities and services for the benefit of the Owners. Common Expenses shall also include insurance for directors and officers, road maintenance and operation expenses, and in-house communications, which are reasonably related to the general benefit of the Owners even if such expenses do not attach to the Common Elements or property of the Condominium, and the cost of a master antenna television system or duly franchised cable television service obtained pursuant to a bulk contract, if applicable.

a) An Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments coming due while that person is the Owner of a Unit. In the case of a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor for the share of the Common Expenses up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. A first mortgagee who acquires title to the unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid assessments that become due prior to the mortgagee's receipt of the deed. However, the mortgagee's liability is limited to a period not exceeding 6 months, but in no event does the first mortgagee's liability exceed 1 percent of the original mortgage debt if such mortgagee joins the Association as a defendant in the foreclosure action. The first mortgagee's liability for such expenses or assessments does not commence until 30 days after the date the first mortgagee takes title to the Unit. In no event shall the mortgagee be liable for more than 6 months of the unit's unpaid common expenses or assessments accrued before the acquisition of the title to the unit by the mortgagee or 1 percent of the original mortgage debt, whichever amount is less. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the Unit for which the Assessments are made or otherwise.

b) Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the highest lawful rate from the date due until paid. In addition to the above stated interest, the Association may charge an administrative late fee in an amount not to exceed the highest amount provided for in the Condominium Act (as it may be amended from time to time) on Assessments and installments thereof not paid when due. All payments upon account shall be first applied to interest, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection and then to the Assessment. The foregoing method of applying payments shall be applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment. Further, the

Association shall have a lien on each Condominium Parcel for any unpaid Assessment, administrative fee, interest and all attorney's fees for the collections thereof. The claim of lien shall not be released until all sums secured by it (or such other amount as to which the Association shall agree by way of settlement) have been fully paid or until it is barred by law. The claim of lien shall secure (whether or not stated therein) all unpaid Assessments, interest thereon, and costs and attorney's fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure. A claim of lien must be signed and acknowledged by an officer or agent of the Association. Upon payment, the person making the payment is entitled to a satisfaction of the lien in recordable form. The Association may bring an action in its name to foreclose a lien for unpaid Assessments in a manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien. As an additional right and remedy of the Association, upon filing a claim of lien, the Association may declare the Assessment installments for the remainder of the budget year to be accelerated and such amount shall thereupon be immediately due and payable. In the event the amount of such installments changes during the period for which Assessments were accelerated, the Unit Owner or the Association, as appropriate, shall be obligated to pay or reimburse to the other the amount of increase or decrease within ten (10) days of same taking effect.

c) If the Owner remains in possession of the Unit and the claim of lien is foreclosed, the court in its discretion may require the Unit Owner to pay a reasonable rental for the Unit and the Association is entitled to the appointment of a receiver to collect the rent.

d) First Mortgagees acquiring title to a Unit as a result of foreclosure, or a deed in lieu of foreclosure, may not, during the period of its ownership of such Unit, whether or not such Unit is unoccupied, be excused from the payment of some or all of the Common Expenses coming due during the period of such ownership. In addition, the First Mortgagee is liable for the share of Common Expenses of Assessments and special Assessments or other charges imposed by the Association pertaining to such Unit which became due prior to acquisition of title as a result of the foreclosure or the acceptance of such deed; provided, however, the First Mortgagee's liability is limited to 1 percent of the original mortgage debt only if such mortgagee joins the Association as a defendant in the foreclosure action. If any unpaid share of Common Expenses or Assessments or other charges is extinguished by foreclosure of a superior lien or by a deed in lieu of foreclosure thereof, the unpaid share of assessments are Common Expenses collectible from all of the Owners, including such acquirer, and such acquirer's successors and assigns.

e) Within fifteen (15) days after request of an Owner or mortgagee of a Unit, the Association shall provide a certificate stating whether all Assessments and other moneys owed to the Association by the Owner with respect to his Unit have been paid.

f) Regular Assessments may be collected monthly or quarterly, in advance, at the option of the Association from time to time.

g) Nothing herein shall abridge or limit the rights or responsibilities of mortgagees of a Condominium Unit as set forth in greater detail in the statutes made and provided for same.

h) With the exception of liens which may result from the initial construction of this Condominium, no liens of any nature may be created subsequent to the recording of this Declaration against the Condominium Property as a whole (as distinguished from individuals units) except with the unanimous consent of the Unit Owners.

i) Unless a Unit Owner has expressly requested or consented to work being performed or materials being furnished to his Unit or unless work was done on account of the Unit Owners failure to maintain his individual Unit as provided for in Article XI, such labor or materials may not be the basis for the filing of a lien against same. No labor performed or materials furnished to the Common Elements shall be the basis for a lien thereon unless authorized by the Association, in which event same may be the basis for the filing of a lien against all Condominium Parcels in the proportions for which the owners thereof are liable for Common Expenses.

j) Developer's Liability for Assessments. During the period from the date of the recording of this Declaration until the earlier of the following dates (the "Guarantee Expiration): (1) the last day of the twelfth (12<sup>th</sup>) full calendar month following the recording of this Declaration, or (2) the date that control of the Association is transferred to Unit Owners other than the Developer as provided in the By-Laws and the Act, the Developer shall not be obligated to pay the share of Common Expenses and Assessments attributable to the Units owned by the Developer, provided: (a) that the regular Assessments for Common Expenses imposed on each Unit Owner other than the Developer prior to the Guarantee Expiration Date shall not increase during such period over the following amounts (for a description of Units by unit type, see EXHIBIT 2 attached hereto):

<u>Unit Type</u>	<u>No. of Units</u>	<u>Monthly Amount Per Unit</u>	<u>Monthly Amount</u>	<u>Annual Amount</u>
1	6	\$369.54	\$2,217.24	\$26,606.88
2	6	\$369.54	\$2,217.24	\$26,606.88
3	6	\$369.54	\$2,217.24	\$26,606.88
4	6	\$369.54	\$2,217.24	\$26,606.88
5	6	\$369.54	\$2,217.24	\$26,606.88
6	6	\$369.54	\$2,217.24	\$26,606.88
7	6	\$369.54	\$2,217.24	\$26,606.88
Total	42	\$2,586.78	\$15,520.68	\$186,248.16

and (b) that the Developer shall be obligated to pay any amount of Common Expenses actually incurred during such period and not produced by the Assessments at the guaranteed levels of receivable from other Unit Owners and/or from income of the Association. After the Guarantee Expiration Date, the Developer shall have the option of extending the guarantee for one or more additional period, or paying the share of Common Expenses and Assessments attributable to Units it then owns. Notwithstanding the above and as provided in Section 718.16(9)(a)(2) of the Act, in the event of an Extraordinary Financial Event (as hereinafter defined), the costs necessary to effect restoration shall be assessed against all Unit Owners owning units on the date of such Extraordinary Financial Event occurred, and their successors and assigns, including the

Developer (with respect to Units owned by the Developer). As used in this subsection, an "Extraordinary Financial Event" shall mean Common Expenses incurred prior to the Guarantee Expiration Date (as same may be extended) resulting from a natural disaster or Act of God which is not covered by insurance proceeds from the Insurance maintained by the Association as required by Section 718.111(11)(1) of the Act.

### ARTICLE XIII - INSURANCE

The insurance which shall be carried upon the Condominium property and the property of the Unit Owners shall be governed by the following provisions.

A. Purchase of Insurance. The Association shall use its best efforts to obtain and maintain fire and extended coverage insurance and vandalism and malicious mischief insurance insuring all for the insurable improvements within the Condominium, which the Association is obligated to insure, together with such other insurance as the Association deems necessary in and for the interest of the Association, all Unit Owners and their mortgagees, as their interests may appear, in a company with an "A" rating or better, in an amount which shall be equal to the maximum insurable replacement value and other expenses in connection with said insurance shall be assessed against the Unit Owners as part of the Common Expenses. The named insured shall be the Association, individually and as agent for the Unit Owners, without naming them, and as agent for their mortgagees.

Provisions shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of Units. Such policies shall provide that payments for losses thereunder by the insurer shall be made to the Insurance Trustee hereinafter designated, and all policies and endorsements thereon shall be deposited with the Insurance Trustee. Unit Owners may obtain insurance coverage at their own expense on their own personal property and for their personal liability and living expense and the contents of their respective Unit.

B. Coverage. The Association shall use its best efforts to maintain insurance covering the following:

1. Property Damage. The Building, including all fixtures, installations or additions comprising that part of the Building within the boundaries of the Units and required by the Condominium Act to be insured under the Association's policy(ies), but excluding all furniture, furnishings, floor coverings, wall coverings and ceiling coverings or other personal property owned, supplied or installed by Unit Owners or tenants of Unit Owners, and also excluding hurricane shutters, unit floor coverings, wall coverings, or ceiling coverings and the following equipment if it is located within a Unit or if the Unit Owner is required to repair or replace such equipment: electrical fixtures, appliances, air conditioning or heating equipment, water heaters, built-in cabinets, personal property as well as fixtures, appliances or equipment permitted to be excluded from the Condominium's insurance policy pursuant to the Act, as same may be amended or renumbered from time to time and all improvements located on the Common Elements from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Elements or owned by the Association (all of the foregoing herein referred to collectively as the "Insured Property"), which shall be insured in an

amount not less than 100% of the full insurable replacement value thereof, excluding foundation and excavation costs. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association. Such coverage shall afford protection against:

(i) Loss or Damage by Fire and Other Hazards covered by a standard extended coverage endorsement; and

(ii) Such Other Risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.

2. Liability. Comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Insured Property or adjoining driveways and walkways, or any work, matters or things related to the Insured Property, with such coverage as shall be required by the Board of Directors of the Association, but with combined single limit liability of not less than \$1,000,000 for each accident or occurrence, \$300,000 per person and \$100,000 property damage, and with a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa.

3. Worker's Compensation and other mandatory insurance, when applicable.

4. Flood Insurance if required by the Primary Institutional First Mortgagee or if the Association so elects.

5. Fidelity Insurance. The Association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the Association in an amount not less than the minimum sum required by the Condominium Act.

6. Association Property. Appropriate additional policy provisions, policies or endorsements extending the applicable portions of the coverage described above to all Association Property, where such coverage is available.

7. Such Other Insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) subrogation against the Association and against the Unit Owners individually and as a group, (ii) pay only a fraction of any loss in the event of co-insurance or if other insurance carriers have issued coverage upon the same risk, and (iii) avoid liability for a loss that is caused by an act of the Board of Directors of the Association, a member of the Board of Directors of the Association, one or more Unit Owners or as a result of contractual undertakings. Additionally, each policy shall provide that any insurance trust agreement will be recognized, that the insurance provided shall not be prejudiced by any act or omissions of individual Unit Owners that are not under the control of the Association, and that the policy shall be primary, even if a Unit Owner has other insurance that covers the same loss. All policies of

physical damage insurance shall provide that such policies may not be canceled or substantially modified without at least forty-five days prior written notice of all of the named insureds, including all mortgagees of Units. Prior to obtaining any policy of property damage insurance or any renewal thereof, the Board of Directors shall obtain an appraisal from a fire insurance company, or other competent appraiser, of the full insurable replacement value of the Insured Property (exclusive of foundations), without deduction for depreciation, for the purpose of determining the amount of insurance to be effected pursuant to this Section.

C. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense.

D. Insurance Trustee - share of proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee, which shall be designated by the Board of Directors and which shall be any bank or trust company in Florida with trust powers. The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee.

1. Common Elements. Proceeds on account of damage to Common Elements - an undivided share for each Unit Owner, such share being the same as the undivided share in the Common Elements appurtenant to his Unit.

2. Units. Proceeds on account of damage to Units shall be held in the following undivided shares:

a. When the Building is to be restored - for the owners of the damaged Units in proportion to the cost of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Association.

b. When the building is not to be restored an undivided share for each Unit Owner, such share being the same as the undivided share in the Common Elements appurtenant to his Unit.

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

E. Distribution of Proceeds. Proceeds of insurance policies received by the

Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

1. Expense of the Trust. All expenses of the Insurance Trustee shall be first paid or provisions made therefor.

2. Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittance to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

3. Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittance to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

4. Certificate. In making distribution to Unit Owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to the names of the Unit Owner and their respective shares of the distribution.

F. Association as Agent. The Association is hereby irrevocably appointed agent for each Unit Owner and for each owner of any other interest in the Condominium to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

G. Each Unit Owner shall obtain and maintain at all times, individual property damage and general liability policies insuring the property lying within the boundaries of their Unit and for their personal liability arising in the use of their own Unit and other areas of the Common Elements for which they have exclusive use.

#### **ARTICLE XIV - RECONSTRUCTION OR REPAIR AFTER PROPERTY DAMAGE**

A. Determination to Reconstruct or Repair. If any part of the Condominium shall be damaged by an event of damage, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

1. Common Elements. If the damaged improvement is a Common Element, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the Condominium shall be terminated.

2. Buildings.

a. Lesser Damage. If the damaged improvement is a building or buildings containing a group of Units, the damaged property shall be reconstructed or repaired unless within 60 days after the event of damage, it is determined by agreement in the manner elsewhere provided that the Condominium shall be terminated.

b. Major Damage. If the damaged improvements is to more than one building, and if Units to which more than 50% of the Common Elements are appurtenant are found by the Board of Directors to be not tenantable, then the damaged property will not be reconstructed or repaired and the Condominium will be terminated without agreement as elsewhere provided, unless within 60 days after the event of damage, at least seventy-five (75%) percent of the Unit Owners agree in writing to such reconstruction repair.

3. Certificate. The Insurance Trustee may rely upon a certification of the Association made by its President and Secretary to determine whether or not the damaged property is to be reconstructed or repaired.

B. Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original buildings, or if not, then according to plans and specifications approved by the Board of Directors of the Association, and if the damaged property is a group of Units, by not less than seventy-five (75%) percent of the Owners of Units, including the at least seventy-five (75%) percent of the Owners of all damaged Units.

C. Responsibility. If the damage is only to those parts of one Unit for which the responsibility of maintenance and repair is that of the Unit Owner, then the Unit Owner shall be responsible for reconstruction and repair after the event of damage. In all other instances, the responsibility of reconstruction and repair after the event of damage shall be that of the Association.

D. Estimate of Costs. Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the costs to rebuild or repair.

E. Assessments. The amount by which an award of insurance proceeds to the Insurance Trustee is reduced on account of a deductible clause in an insurance policy shall be assessed against all Unit Owners in proportion to their share in the Common Elements. If the proceeds of such Assessments and of the insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair the funds for the payment of the costs of reconstruction and Unit repair are insufficient, Assessments shall be made against the Unit Owners in the case of damage to Common Elements, in sufficient amounts to provide funds for the payment of such Unit costs. Such Assessments against Unit Owners for damage to Units shall be in proportion to the cost of reconstruction or repair of their respective Units. Such Assessments on account of damage to Common Elements shall be in proportion to the Unit Owner's share in the Common Elements.

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

1. Association. If the total assessments made by the Association in order to provide funds for payment of costs of reconstruction and repair which is the responsibility of the Association is more than \$10,000.00, then the sums paid upon such Assessments shall be deposited by the Association with the Insurance Trustee. In all other cases, the Association shall hold the sums paid upon such Assessments and discharge same in payment of the costs of reconstruction and repair.

2. Insurance Trustee. The proceeds of insurance collected on account of an event of damage, and the sums deposited with the Insurance Trustee by the Association from collection of assessment against Unit Owners on account of such event of damage shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

a. Association - lesser damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than \$5,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request to the Insurance Trustee by a mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.

b. Association - major damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is \$5,000.00 or more, then the reconstruction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association and upon approval of an architect qualified to practice in Florida and employed by the Association to supervise the work.

c. Unit Owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with a Unit Owner shall be paid by the Insurance Trustee to the Unit Owner, or if there is a mortgage encumbering such Unit, then to the Unit Owner and the Mortgagee jointly.

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

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

#### **ARTICLE XV - TAXATION**

A. For the purpose of ad valorem taxation, the interest of the Owner of a Condominium Parcel in his Unit and in the Common Elements appurtenant to such Unit shall be considered as a unit. The value of said unit shall be equal to the fractional share of undivided shares in Common Elements of the entire Condominium, including land and improvements as has been assigned to said Unit in EXHIBIT 2 of this Declaration. The total of all of said fractions equals 100% of the value of all of the land and improvements thereon.

B. The fractions assigned above shall be binding upon all Owners for all purposes, including ad valorem taxation, at all times in the future, and may not be amended or changed except as provided for in this Declaration.

#### **ARTICLE XVI - TERMINATION OF CONDOMINIUM**

A. If at least seventy-five (75%) percent of the Unit Owners of the Condominium Parcels execute and duly record an instrument terminating the Condominium, or if "Major Damage" occurs as defined in the insurance clauses hereof, the Condominium shall be deemed to be subject to termination and thereafter owned in common by the Unit Owners. The undivided interest in the property owned in common by each Unit Owner shall then become the percentage of the undivided interest previously owned by such Owner in the Common Elements. No termination of the Condominium shall be deemed to have occurred unless and until the notice and recording requirements of Section 718.117, Florida Statutes, or any other applicable provision within Chapter 718, Florida Statutes, have been met.

B. In the event of termination as a result of Major Damage, the Association shall be deemed to be the trustee of each Unit Owner and shall, for ease in conveyancing, hold title to the Unit and its share of the Common Elements as "Trustee" on behalf of each Unit Owner and in accordance with each Unit Owners proportionate interest. All costs and expenses associated

with the operation of the property shall be borne by each Owner in accordance with their proportionate ownership interest.

## **ARTICLE XVII - FAILURE TO COMPLY WITH CONDOMINIUM DOCUMENTS**

A. The Owner of a Unit shall be governed by and shall comply with the provisions of this Declaration of Condominium, and the Articles of Incorporation and By-Laws of the Association, and its Rules and Regulations as any of the same are now constituted or as they may be adopted and/or lawfully amended from time to time. Failure by the Owner of a Unit to comply with such documents shall entitle the Association or the Owner of other Units to the following relief:

1. Failure to comply with any of the terms of this Declaration of Condominium or other restrictions and regulations contained in the Articles of Incorporation or By-Laws of the Association, or its Rules and Regulations, shall be grounds for relief which may include, without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure or lien as provided in Article XII or any combination thereof. Such relief may be sought by the Association or, if appropriate, by an aggrieved Owner of a Unit. In any proceeding arising because of an alleged failure to comply by the Owner of a Unit or the Association, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (at all trial, appellate or arbitration proceeding) as may be determined by the Court or such tribunal.

2. The failure of the Association or of the Owner of a Unit to enforce any right, provision, covenant or condition which may be granted by this Declaration of Condominium or other above-mentioned documents shall not constitute a waiver of the right of the Association or of the Owner of a Unit to enforce such right, provision, covenant or condition in the future.

3. All rights, remedies and privileges granted to the Association or the Owner of a Unit pursuant to any terms, provisions, covenants or conditions of this Declaration of Condominium or other above-mentioned documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies or privileges as may be available to such party at law or in equity.

4. The failure of the Developer to enforce any right, privilege, provisions, covenant or condition which may be granted to it by this Declaration of Condominium or the above-mentioned documents shall not constitute waiver of the right to thereafter enforce such right, privilege, provisions, covenant or condition in the future.

B. In the event of substantial damage to, or destruction of, all or a substantial part of the Condominium Property, and in the event the property is not repaired, reconstructed or rebuilt within a reasonable period of time, any Unit Owner shall have the right to petition a Court of equity in Miami-Dade County, Florida for equitable relief, which may, but need not necessarily, include a termination of the Condominium and partition.

## **ARTICLE XVIII - MISCELLANEOUS PROVISIONS & OWNER RESTRICTIONS**

A. **Occupancy and Use.** The Unit Owner shall occupy and use his residential Unit as a private dwelling for himself and members of his family and social guests, and for no other purpose.

1. In the event the Unit Owner is an artificial entity, the Unit shall be occupied and used by those individuals of the entity as may have been approved by the Developer or the management firm, if there is a management agreement in effect, and thereafter by the Board of Directors of the Association.

2. The Unit Owner shall not permit or suffer anything to be done or kept in his Unit which will increase the rate of insurance on the Condominium Property, or which will obstruct or interfere with the rights of other Unit Owners or annoy them by unreasonable noises or otherwise; nor shall the Unit Owner commit or permit any nuisance, immoral or illegal act in or about the Condominium Property.

3. No clotheslines or similar devices shall be allowed on any portion of the Condominium Property.

4. Except for one (1) portable, removable United States flag, which may be displayed in a respectful manner on the exterior of the Unit and reasonable accommodation for the attachment on the mantel or frame of the door of the unit owner of a religious object not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep, the Unit Owner shall not cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, or windows of the buildings except with the prior written consent of the Board of Directors, and further, when approved, subject to the rules and regulations adopted by the Board of Directors.

5. No person shall use the Common Elements, or any part thereof, or a Unit, or the Condominium Property, or any part thereof, in any manner contrary to or not in accordance with such Rules and Regulations pertaining thereto, as from time to time promulgated by the Association.

6. No Unit Owner shall show signs, advertisements, or notices of any type on the Common Elements or in his Unit or within his Unit which said signs, advertisements, or notices are visible from the exterior of the Unit, without the prior written consent of the Association.

7. No Owner or occupant of a Unit, including lessees and guests, shall be permitted to maintain any animals in their Unit or on the Condominium Property except as provided herein. Each Owner or occupant (regardless of the number of joint owners or occupants) may maintain up to one (1) household pet in his Unit, to be limited to dogs (not exceeding twenty (20) pounds) or cats, provided such dogs or cats have been registered with the Association and are not kept, bred or maintained for any commercial purposes and do not become a nuisance or annoyance to neighbors. Each Owner or occupant who is permitted to

maintain a properly registered dog or cat shall comply with all of the additional restrictions set forth in this Paragraph governing pets. Any dog or cat that has been properly registered may be replaced upon their death or removal from the Unit. No reptiles or other wildlife shall be kept in or on the Condominium Property (including Units). Unit Owners must pick-up all solid wastes of their pets and dispose of such wastes appropriately. All dogs must be kept on a leash no more than six (6) feet in length at all times when outside the Unit. No pets may be kept on balconies when the Owner is not in the Unit. Violations of the provisions of this Paragraph shall entitle the Association to all of its rights and remedies, including, but not limited to, the right to fine Owners and/or to require any pet to be permanently removed from the Condominium Property. This Paragraph shall not prohibit the keeping of fish or a caged household-type bird(s) in a Unit, provided that a bird(s) is not kept on Limited Common Elements and does not become a nuisance or annoyance to neighbors.

8. No nuisances shall be allowed upon the Condominium Property, nor shall any use or practice that is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents be permitted. All parts of the Condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist. No Owner shall permit any use of his Unit or make any use of the Common Elements that will increase the cost of insurance upon the Condominium Property.

9. No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. Violations of laws, orders, rules, regulations, or requirements of any governmental agency having jurisdiction, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party violating any such provisions.

10. The rights of access and use established with respect to the Condominium Property shall be subject to security checks and restrictions. In the event the Association hires security personnel, such personnel shall have the right to stop and question persons and to require satisfactory evidence of any such person's right to be where such person is stopped. Persons not establishing such rights to the satisfaction of the security personnel may be required to leave the Condominium Property.

11. The entrances, passages, vestibules, elevators, lobbies, halls and like portions of the Common Elements shall not be obstructed nor used for any purpose other than the ingress and egress to and from the Condominium Property; nor shall any carts, bicycles, carriages, or any other similar objects be stored therein. The personal property of Owners must be stored in their respective Units or in assigned storage lockers or spaces, if any.

12. No Owner shall interfere with or direct any employees of the Association. Employees of the Association are not to be utilized for personal errands. The Board of Directors shall be solely responsible for directing and supervising employees of the Association, except to the extent such responsibility may be delegated to the Association's manager.

13. No Owner shall make or permit any disturbing noises in the Condominium by himself or his family, servants, employees, agents, visitors, or licensees, nor permit any conduct by such persons that will interfere with the rights, comforts or conveniences of other Unit Owners. No Owner shall play or permit to be played any musical instrument, nor operate nor permit to be operated a phonograph, television, radio, sound amplifier or other electronic equipment in a Unit in such a manner as to disturb or annoy other residents.

14. The Association may retain a pass-key to all Units. No Owner shall alter any lock, nor install a new lock, without the prior written consent of the Board of Directors. Where such consent is given, the Owner shall provide the Association with an additional key.

15. An Owner who plans to be absent during the hurricane season must prepare his Unit prior to his departure by designating a responsible firm or individual to care for his Unit should the Unit suffer hurricane damage, and furnishing the Association with the name(s) of such firm or individual.

16. Children shall be the direct responsibility of their parents or legal guardians who must supervise them while they are within the Condominium Property. Playing shall not be permitted in any of the lobbies, hallways, stairways, elevators and lobby areas.

17. In order to preserve the residential character of the Condominium, no business, trade or profession of any type shall be operated from within any Unit. Notwithstanding the foregoing, residents shall not be restricted from utilizing home computers, fax machines and telephones for personal or business use, provided such practice does not violate the residential character of the Condominium.

18. Unit Owners shall park their automobiles in their spaces as assigned. Unit Owners shall not park their automobiles in any guest parking areas, or any other part of the Common Elements. Any guests or invitees or servants of said Units shall be required to use the guest parking spaces.

**B. Alterations & Decorations.**

No Owner shall cause or allow improvements or changes to any Unit or the Limited Common Elements appurtenant thereto or to the Common Elements, including, but not limited to: painting or other decorating of any nature, installing any electrical wiring, television antenna, machinery or air-conditioning units, installing balcony enclosures or in any other manner changing the appearance of any portion of the Building, without obtaining the prior written consent of the Board of Directors in the manner specified herein.

1. Whenever in the judgment of the Board of Directors, the Common Elements, Association Property or any part thereof, shall require additions, alterations or improvements (as distinguished from repairs and replacements) costing in excess of \$100,000 in the aggregate in any calendar year, the Association may proceed with such additions, alterations or improvements upon the approval of a majority of the voting members represented at a meeting at which a quorum is attained. Any such additions, alterations or improvements to the Common

Elements, Association Property, or any part thereof, costing in the aggregate \$100,000.00 or less in a calendar year may be made by the Board of Directors without approval of the Owners. The cost and expense of any such additions, alterations, or improvements shall constitute a part of the Common Expenses and shall be assessed to the Owners. Notwithstanding anything in this Paragraph to the contrary, changes to the exterior or interior color scheme of the Building shall not be deemed an alteration or improvement requiring Owner approval. Accordingly, changes in color to interior or exterior surfaces, including, but not limited to: painted, wallpapered, carpeted, or hard floor surfaces may be authorized by the Board of Directors without Owner approval even if the cost associated with such changes exceed \$100,000.00 in a calendar year. For purposes of this Paragraph, "aggregate in any calendar year" shall include the total debt incurred in that year, if such debt is incurred to perform the above stated purposes, regardless of whether the repayment of any part of that debt is made beyond that year.

2. No Owner shall make any additions, alterations or improvements in or to the Common Elements, the Unit or any Limited Common Element, including, but not limited to: the installation of screens, sliding glass doors, enclosures to balconies, awnings, hot tubs, trellises, window tinting, painting visible from the exterior of the Unit, installation of electrical wiring, antennas, machinery, air conditioning units, or hard floor surfaces, without the prior written consent of the Board of Directors. Any requests for electrical, mechanical and structural additions, alterations and improvements must be submitted with plans prepared and sealed by the appropriate licensed professional (i.e., architect, engineer, etc.) The Owner shall be responsible for any fees and costs incurred by the Association in hiring professionals such as engineers, architects or attorneys as may be necessary to review any request by an Owner to proceed with an addition, alteration or improvement. The Board of Directors shall have the obligation to answer any written request by an Owner for approval of such an addition, alteration or improvement within forty-five (45) days from receipt of such request and any additional information as may be requested by the Board of Directors. Any approved additions, alterations and improvements shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, and with any conditions imposed by the Board of Directors with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. An Owner making any such additions, alterations or improvements and his successors and assigns shall be deemed to have agreed to hold the Association, its officers, directors, agents, employees and members harmless from and to indemnify them for any liability or damages to the Condominium Property arising from the installation or construction of the addition, alteration or improvement and shall be solely responsible for the maintenance, repair and insurance thereof as may be required by the Association. Depending upon the nature of the alteration, addition or improvement, the Board of Directors in its sole discretion shall have the authority to require the Owner to execute an Agreement and covenant running with the land as a condition to obtaining approval. Notwithstanding anything in this Article to the contrary, the Board of Directors shall not refuse to approve the installation or replacement of hurricane shutters conforming to the specifications adopted by the Board of Directors. The Board of Directors may appoint an Architectural Control Committee to assume the foregoing functions on their behalf.

3. With the exception of the Developer, hard floor coverings, including but not limited to: tile, wood, marble and stone, may not be installed in any part of the Unit (except bathrooms) or Limited Common Elements without the prior written consent of the Board of Directors in accordance with the procedures specified herein. Approval for installation of any hard floor covering shall be subject to compliance with weight and soundproofing specifications adopted by the Board of Directors from time to time. Due to the propensity of carpeting to retain moisture and thus contribute to the corrosion of the concrete slabs, under no circumstances may carpeting be installed or maintained on any balconies.

4. Any Owner who proceeds with an approved addition, alteration or improvements shall do it at their sole risk. In the event it is necessary for the Association to remove an addition, alteration or improvement installed by an Owner in the course of performing repairs or maintenance to any portion of the Condominium required to be maintained or repaired by the Association, the Owner shall be responsible for the cost of removal and replacement of such addition, alteration and improvement. Under no circumstances shall the Association be responsible for any damages to any such addition, alteration or improvement caused by the Association or its agents or employees in connection with the performance of any maintenance, repairs or replacements of any portion of the Condominium required to be maintained by the Association.

5. Owners shall be held strictly liable for any violations of the restrictions set forth in this Article and for all damages resulting therefrom. The Association, in addition to all other rights and remedies provided by law and this Declaration shall have the right to require the immediate removal of any alterations, additions, or improvements in violation of this Article.

C. Occupancy, Transfer or Lease. In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the Units and provided this Article shall not be used to permit or sanction unlawful discrimination or other violation of laws, the occupancy, transfer or lease of any Unit by any Owner of a Unit, other than the Developer, shall be subject to the following provisions.

1. Each Unit shall be used as a residence only. A Unit owned or leased under an approved lease by an individual, corporation, partnership, trust or other fiduciary may only be occupied by the following persons, and such persons' families, provided that the Owner or other permitted occupant must reside with his/her family: (1) the individual Unit Owner or lessee, (ii) an officer, director, stockholder, employee or designee of a corporation, (iii) a partner, employee or designee of a partnership, (iv) the fiduciary or beneficiary of a trust. Under no circumstances may more than one family reside in a Unit at one time. In no event shall occupancy (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom. The Board of Directors shall have the power to authorize occupancy of a Unit by persons in addition to those set forth above.

If a Unit is owned or leased by a corporation, partnership, trust or other fiduciary, the individual permitted occupant of any such Unit and their family members as defined in this Article shall be designated in writing to the Board of Directors prior to occupancy of any such Unit. Thereafter, only the individual permitted occupant of such Unit and their

designated family members may occupy the Unit for any consecutive twelve (12) month period. In order to change the permitted occupant and the designated family members after any consecutive twelve (12) month period, the corporate or entity owner of the Unit must re-designate the permitted occupant and their family members in writing to the Board of Directors.

As used herein, "family" or words of similar import shall be deemed to include a spouse, children, parents, brothers, sisters, grandchildren and other persons permanently cohabiting in the Unit together with the Owner or permitted occupant thereof. As used herein, "guests" or words of similar import shall include only those persons who have a principal residence other than the Unit. Unless otherwise determined by the Board of Directors of the Association, a person(s) occupying a Unit for more than one (1) month without the Owner or a member of his family being present shall not be deemed a guest but, rather, shall be deemed a lessee for purposes of this Declaration (regardless of whether a lease exists or rent is paid) and shall be subject to the provisions of this Declaration which apply to lessees. The purpose of this Paragraph is to prohibit the circumvention of the provisions and intent of this Article requiring the Association's approval of all lessees.

2. Any Owner who receives a bona fide offer to purchase their Unit (such offer to purchase a Unit shall be referred to as an "Outside Offer"), which they intend to accept shall give notice by certified mail to the Board of Directors of the receipt of such Outside Offer. Said notice shall also state the name and address of the proposed purchaser, the terms of the proposed transaction and such other information as the Board of Directors may reasonably require. The giving of such notice to the Board of Directors shall constitute an offer by such Owner to sell the Unit to the Association or its designee upon the same terms and conditions as contained in such Outside Offer. The Owner shall submit in writing such further information with respect thereto as the Board of Directors may reasonably request. Not later than thirty (30) days after receipt of such notice, together with such further information as may have been requested, the Association or its designee may elect, by sending written notice to such Owner, to purchase such Unit upon the same terms and conditions as contained in the Outside Offer. If the Board of Directors elects to purchase the Unit on behalf of the Association in accordance with the terms of the Outside Offer, the Board of Directors shall have the authority to proceed with such purchase on behalf of all Owners. If the available funds of the Association are insufficient to effectuate any such purchase, the Board of Directors may levy an Assessment against each Owner in proportion to his share of the Common Expenses, and/or the Board of Directors may, in its discretion, finance the acquisition of such Unit.

3. In the event the Association or its designee should fail to notify the Owner of its election to purchase such Unit within the time period prescribed above, the Owner shall be free to accept the Outside Offer. In such event, if the Owner accepts such Outside Offer but such sale is not consummated in accordance with the terms of such Outside Offer or within a reasonable time after the date set for closing, then, should such Owner thereafter elect to sell such Unit the Owner shall be required to again comply with all of the terms and provisions of this Section.

4. Upon request of the Owner, a duly authorized officer of the Association shall provide the Owner with a certificate of waiver of its right of first refusal if the Association

or its designee does not elect to purchase the Unit in accordance with the terms set forth in the Outside Offer.

5. In order to determine that proposed purchasers are familiar with the governing documents and Rules and Regulations of the Association, the Board of Directors, at its option, shall have the right to require a personal interview with the proposed purchaser.

6. Notwithstanding anything in this Article to the contrary, the Association shall have the absolute right to deny approval of any sale without being obligated to purchase the Unit if: (a) the sale would result in a violation of the Association's governing documents; or (b) the Owner or proposed purchaser makes any material misrepresentation on any documents provided to the Association or in the personal interview. A material misrepresentation shall be defined as any false representation or omission which in the sole judgment of the Board of Directors would influence their decision in regard to whether to exercise their right of first refusal.

7. The provisions of this Article shall not apply with respect to any sale or conveyance of any Unit by: (a) the Owner thereof to his spouse, adult children, parents, or a trustee, corporation or other entity where the Owner or the aforementioned related persons are and continue to be the sole beneficiary or equity owner of such trustee, corporation or other entity; (b) the Association; or (c) an Institutional First Mortgagee deriving title by virtue of foreclosure of its mortgage or acceptance of a deed in lieu of foreclosure; provided however, that each succeeding Owner shall be bound by, and his Unit subject to, the provisions of this Article. Any Owner shall be free to convey or transfer his Unit by will, or to have his Unit pass by intestacy, without restriction; provided, however, that each succeeding Owner shall be bound by, and his Unit subject to, the provisions of this Article.

8. The Association shall have the authority to charge a non-refundable \$100.00 screening fee in connection with the approval required for the sale of a Unit. Said fee may be increased by the Board of Directors from time to time but shall not exceed the highest fee permitted by law as set forth in Chapter 718, Florida Statutes, as same may be amended from time to time.

9. Any purported sale of a Unit in violation of this Article shall be voidable at any time at the election of the Association and if the Board of Directors shall so elect, the Owner shall be deemed to have authorized and empowered the Association to institute legal proceedings to void a conveyance. Said Owner shall reimburse the Association for all expenses (including attorneys' fees and costs incurred in connection with such proceedings).

10. The following restrictions shall apply in connection with the leasing of Units:

- (i) No Unit may be leased for a term of less than one (1) month. If an approved tenant should vacate the Unit prior to the expiration of the lease term, the Owner shall not be permitted to relet the Unit during such period.

- (ii) An Owner intending to lease his Unit shall provide the Association with a copy of the proposed lease and a standard lease application form as promulgated by the Board of Directors from time to time. The Association may deny permission to lease the Unit upon any reasonable grounds, including without limitation: (1) failure of the Owner to submit all documents required or to submit the screening fee as described below; (2) the Owner is delinquent in the maintenance assessments for his Unit; (3) occupancy of the unit by the proposed tenant would violate any provision of this Declaration, the By-Laws, Articles of Incorporation or Rules and Regulations of the Association.
- (iii) In connection with the leasing of a Unit, the Board of Directors shall have the right to require that Owners and their tenants execute a standard Lease or Lease Addendum as promulgated by the Board of Directors from time to time. In addition to other provisions which may be adopted by the Board of Directors, the standard Lease or Lease Addendum shall provide (or be automatically deemed to provide, absent an express statement) that the tenant is subject to the terms and conditions of the Association's Declaration, By-Laws, Articles of Incorporation, Rules and Regulations and the Condominium Act, as all may be amended from time to time (the "Association's Governing Documents"), and any failure to comply with the terms of the Association's Governing Documents shall constitute a default under the Lease.
- (iv) An Owner leasing his Unit shall be deemed to irrevocably appoint the Association as his agent or attorney-in-fact in his place and stead to terminate the tenancy of any tenant who violates any of the terms of the Association's Governing Documents or statutes of the State of Florida. The determination of whether a violation has occurred shall be within the sole discretion of the Board of Directors. The Owner shall be liable for all costs and reasonable attorney's fees incurred by the Association in connection with the termination of the lease or tenancy and the eviction of the tenant. This provision shall not obligate the Association to commence such proceeding and shall not relieve the Owner of his obligation to terminate the Lease and evict the tenant for any violations of law or the Association's Governing Documents.
- (v) In the event the Owner is delinquent in the payment of any regular or special assessments due to the Association, the Association shall have the authority to directly collect the rental payments from the Owner's tenant. Such rental payments shall be collected and

applied in accordance with the procedures established by the Board of Directors.

- (vi) The Association shall have the authority to charge a non-refundable \$100.00 screening fee in connection with the approval required for the leasing of a Unit. Said fee may be increased by the Board of Directors from time to time but shall not exceed the highest fee permitted by law as set forth in Chapter 718, Florida Statutes, as same may be amended from time to time.
- (vii) Owners wishing to lease their Units shall be required to have any prospective lessee place in escrow with the Association a security deposit in a sum not to exceed one (1) month's rent. The security deposit may be used by the Association to repair any damages to the common elements resulting from acts or omissions of tenants (as determined in the sole discretion of the Board of Directors). The Owner will be jointly and severally liable with the tenant to the Association for any amount in excess of such sum which is required by the Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant. Such security deposits shall be administered in accordance with Part II Chapter 83, Florida Statutes.
- (viii) Except with respect to any fee charged in connection with a lease or sublease, which fee shall not be charged to the same tenant or subtenant in the event of renewal of their lease or sublease, the provisions of this Section shall also apply to subleases, assignments and renewals of leases.
- (ix) When a Unit is leased, a tenant shall have all use rights in the Association Property and those Common Elements otherwise readily available for use generally by Owners and the Owner shall not have such rights except as a guest, unless such rights are waived in writing by the tenant.

D. Restrictions.

1. No Owner of a Condominium Parcel may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use and enjoyment of any of the Common Elements, or by the abandonment of his Unit.

2. No Unit Owner shall attempt to convey his undivided interest in the Common Elements which are appurtenant to each Unit separately from the Unit to which it is appurtenant. The undivided interest in the Common Elements appurtenant to each Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Unit to which it is appurtenant, even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering, or otherwise dealing with such Unit. Any conveyance, mortgage or other instrument which purports to effect the transfer, conveyance, devise or encumbrance, or which purports to grant any right, interest, or lien in, to, or upon a Unit, shall be null, void and of no effect insofar as the same purports to affect any interest in the Common Elements, unless the same purports to convey, devise, encumber or otherwise treat or deal with the entire Unit and its appurtenances. Any instrument conveying, devising, encumbering or otherwise dealing with the Unit which describes said Unit by the designation assigned thereto in **EXHIBIT 2**, without limitation or exception, shall be deemed and construed to affect the entire Unit and its appurtenant undivided interest in the Common Elements. Nothing herein contained shall be construed as limiting or preventing Ownership of any Unit and its appurtenant undivided interest in the Common Elements by more than one person or entity as tenants in Common, joint tenants, or tenants by the entirety.

3. No Unit Owner shall have an action for partition of the Common Elements, except as stated in Article XVII, Paragraph B.

4. No Unit Owner shall attempt in any manner to divest himself of his interest in the Unit and its appurtenances except by conveyance of his total interest in the Unit and its appurtenances.

5. No judicial sale of a Unit nor any interest therein shall be valid unless:

a. The sale is to a purchaser approved by the Association which approval shall be in recordable form, executed by two officers of the Association and delivered to the purchaser; or

b. The sale is a result of a public sale with open bidding.

6. Nothing set forth in this Declaration shall be construed as limiting the Developer's rights to freely and without approval of the Association or any other Unit Owner, convey, alter or modify Units in the Condominium subject to the limitations of Chapter 718 of the Florida Statutes.

7. In addition to other obligations and duties heretofore set out in this Declaration, every Unit Owner shall:

a. Promptly pay the Assessments levied by the Association.

b. Maintain in good condition and repair his Unit and all interior surfaces within or surrounding his Unit, and maintain and repair the fixtures therein.

c. Conform and abide with the By-Laws and uniform rules and regulations promulgated by the Board of Directors of the Association.

E. Sales Activity and Developer's Rights.

Until the Developer, his successors and assigns, has completed and sold all the proposed Units of the Condominium, neither the Unit Owners nor the Association nor their use of the Condominium shall interfere with the completion of the contemplated improvements, Developer's access to and entry upon the Condominium for construction and sales purposes, and the sale of Units. The Developer (or its duly authorized agents or assigns) may make such use of the unsold Units and the Common Elements as may facilitate such construction access, completion and sale, including, but not limited to, the storage of equipment or materials, the maintenance of construction and sales offices for the construction and showing of the property and display of signs, billboards, placards, and visual promotional materials. The Developer may use unsold Units as model units or as sales offices for display purposes to prospective condominium purchasers. The Developer shall have the right to use unassigned parking spaces for prospective purchasers and such other parties as Developer determines. The sales office personal property, model furnishing, signs and all items pertaining to construction and sale shall not be considered Common Elements and shall remain the property of the Developer. As long as Developer shall hold fee simple title to any Unit, in the normal course of business, no amendment affecting or altering Developer's rights under this Declaration may be made without Developer's written consent.

F. Changes in Developer-Owned Units.

Developer shall have the right, without the vote or consent of the Association, to make alterations, or improvements in, to, and upon Units owned by Developer, whether structural or non-structural, interior or exterior, ordinary or extraordinary, so long as the configuration or size of the Units is not changed, the appurtenances to the Units are not materially altered or modified, and, the percentage interest in the Common Elements of any Units shall not be changed by reason thereof. The provisions of this paragraph may not be added to, amended or deleted without the prior written consent of the Developer.

## **ARTICLE XIX - TITLES**

Article and Paragraph titles inserted throughout this Declaration are intended only as a matter of convenience and for reference and in no way define, limit, or in any way affect this Declaration, or define, limit or in any way affect the content of the Articles and Paragraphs.

## **ARTICLE XX - LIBERAL CONSTRUCTION**

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership. It is the intention of the Developer that this Declaration and the provisions hereof, as well as the provisions of all Exhibits hereto, shall comply with the Condominium Act, and if there be any direct conflict between the provisions of this Declaration or any of the Exhibits hereto and the said Condominium Act, then the provisions

of the Condominium Act shall govern, and if there shall ever be a question as to the interpretation of any of the provisions of this Declaration or the Exhibits hereto, same shall be interpreted in accordance with the intent of the Developer in such manner that any such questions would conform to the Condominium Act, and against any interpretation which would not be in conformance with the said Condominium Act.

#### **ARTICLE XXI - SEVERABILITY**

The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration, the Exhibits annexed hereto, or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

#### **ARTICLE XXII - NOTICES**

All notices to the Association required or desired hereunder or under the By-Laws of the Association shall be sent by certified mail (return receipt requested) or registered mail to the Association in care of its office at the Condominium, or to such other address as the Association may hereafter designate from time to time by notice in writing to all Unit Owners. Except as provided specifically in the Act, all notices to any Unit Owner shall be sent by first class mail to the Condominium address of such Unit Owner, or such other address as may have been designated by him from time to time, in writing, to the Association. All notices to mortgagees of Units shall be sent by first class mail to their respective addresses, or such other address as may be designated by them from time to time, in writing to the Association. All notices shall be deemed to have been given when mailed in a postage prepaid sealed wrapper, except notices of a change of address, which shall be deemed to have been given when received, or 5 business days after proper mailing, whichever shall first occur.

#### **ARTICLE XXIII - ATTORNEY FEES**

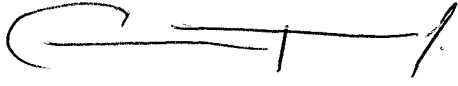
In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Condominium Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees).

#### **ARTICLE XXIV - TIME SHARE ESTATES**

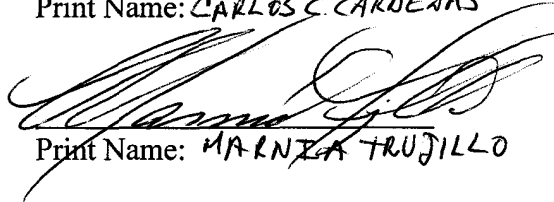
The Developer will not create time-share estates with respect to any Units in this Condominium.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand and seal this  
10<sup>th</sup> day of April, 2013.

Signed, Sealed and Delivered  
in the presence of:

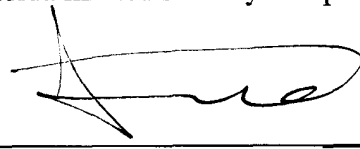


Print Name: CARLOS C. CARDENAS



Print Name: MARNIA TRUJILLO

BH Developers, LLC,  
a Florida limited liability company




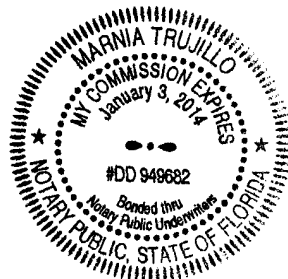
By: \_\_\_\_\_  
Jorge Savloff, Managing Member

STATE OF FLORIDA )

COUNTY OF MIAMI-DADE )

Acknowledged before me this 10<sup>th</sup> day of April, 2013, by Jorge Savloff, as Managing Member of BH Developers, LLC, a Florida limited liability company, who is [☒] personally known to me or has [☐] produced \_\_\_\_\_ as identification and did not take an oath.

My commission expires:

  
NOTARY PUBLIC, State of Florida

**DECLARATION OF CONDOMINIUM  
OF BAY HARBOR CLUB CONDOMINIUM**

**EXHIBIT 1**

**Legal Description of Real Property Being  
Submitted to Condominium Form of Ownership**

**Legal Description: Lots 15 & 16, Block 15, of Bay Harbor Island, according to the  
Plat thereof, as recorded in Plat Book 46, Page 5, of the public  
Records of Miami-Dade County, Florida**

**DECLARATION OF CONDOMINIUM  
OF BAY HARBOR CLUB CONDOMINIUM**

**EXHIBIT 2**

**Survey, Plot Plan, and Graphic Description**

# BAY HARBOR CLUB CONDOMINIUM

1025 - 92ND STREET, BAY HARBOR ISLAND, FLORIDA 33154

## LEGAL DESCRIPTION

LOTS 15 AND 16, BLOCK 15, BAY HARBOR ISLAND, RECORDED IN PLAT BOOK 46 AT PAGE 5 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

## GENERAL NOTES

1. ALL IMPROVEMENTS ARE PROPOSED.
2. DIMENSIONS AND ELEVATIONS AS SHOWN HEREON ARE APPROXIMATE.
3. PLANS ARE SUBJECT TO CHANGE DUE TO ARCHITECTURAL REVISIONS OR STRUCTURAL REQUIREMENTS.
4. INTERIOR DIVIDING WALL WIDTHS VARY.
5. EXTERIOR WALL WIDTHS VARY.
6. SUBJECT TO ALL EASEMENTS SET FORTH IN THE DECLARATION OF CONDOMINIUM AND ALL OTHER MATTERS OF RECORD.
7. THE DEFINITIONS SET FORTH IN THE DECLARATION OF CONDOMINIUM ARE INCORPORATED HEREIN.
8. ALL PORTIONS OF THE CONDOMINIUM PROPERTY NOT INCLUDED WITHIN THE LIMITS OF THE UNITS ARE COMMON ELEMENTS, UNLESS OTHERWISE SHOWN.
9. IN ACCORDANCE WITH THE DECLARATION, THE PARKING SPACES SHOWN HEREON ARE INITIALLY COMMON ELEMENTS, BUT MAY BE ASSIGNED TO PARTICULAR UNITS, IN WHICH EVENT THEY SHALL BE DEEMED LIMITED COMMON ELEMENTS APPURTENANT TO THE UNITS TO WHICH ARE ASSIGNED. ALL BALCONIES, TERRACES, AND PLANTERS ARE LIMITED COMMON ELEMENTS. ALL AIR CONDENSING UNITS ARE LIMITED COMMON ELEMENTS.
10. AREAS WITHIN THE UNIT CONTAINING CONDUITS, WIRING, DUCTS, PLUMBING, BEARING WALLS, STRUCTURAL SUPPORTS, AND OTHER SUCH ITEMS SERVING A UNIT OR UNITS, SERVING LIMITED COMMON ELEMENTS, OR SERVING COMMON ELEMENTS HAVE BEEN OMITTED FROM THESE DRAWINGS FOR PURPOSES OF CLARITY.

FRANKEL BENAYOUN  
ARCHITECTS INC  
ARCHITECTS PLANNERS  
1177 N.W. 107TH AVENUE, SUITE 101  
MIAMI, FLORIDA 33187  
TEL: (305) 555-1111  
FAX: (305) 555-1112  
WWW.FRANKELBENAYOUN.COM



PRINTED 05/30/13

# SITE PLAN

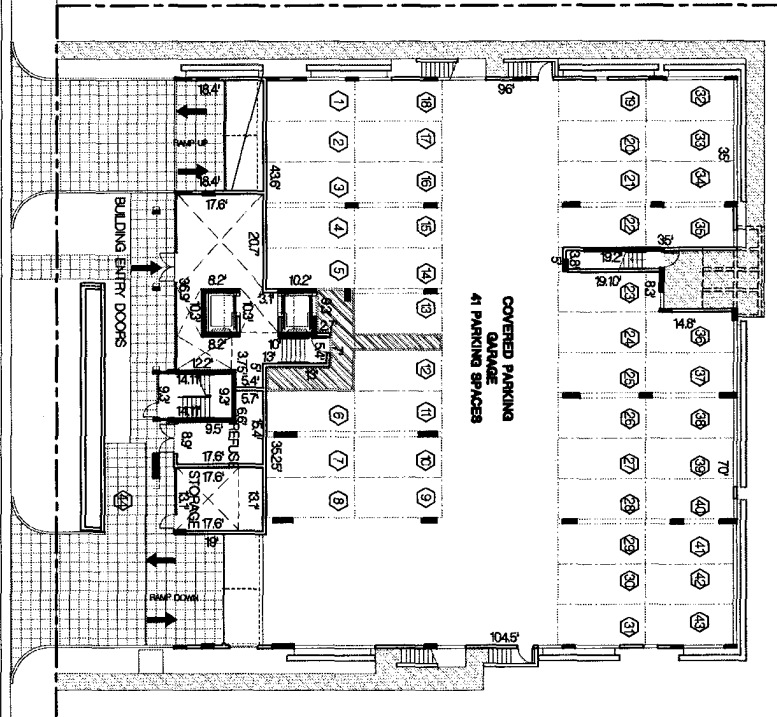
92ND STREET

**FRANKEL BENAYOUN**  
**ARCHITECTS INC**  
ARCHITECT PLANNING INTERIOR DESIGN  
10001 Wilshire Blvd., Suite 2000 Los Angeles, CA 90024  
Tel: 310/277-1111 Fax: 310/277-1112

BAY HARBOR CLUB CONDOMINIUM

1025 92ND STREET  
BAY HARBOR ISLAND, FLORIDA 33564

PRINTED 05.30.13



**COVERED PARKING  
GARAGE  
41 PARKING SPACES**

## LEGEND

UNITED COMMON  
ELEMENT (LCE)

----- DENOTES LIMIT OF THE CONDOMINIUM PROPERTY.

SURVEYORS NOTE ALL AREAS THAT ARE NOT CONTAINED IN UNITS AND ARE NOT LIMITED. COMMON ELEMENTS ARE COMMON ELEMENTS

0 5' 10' 20'

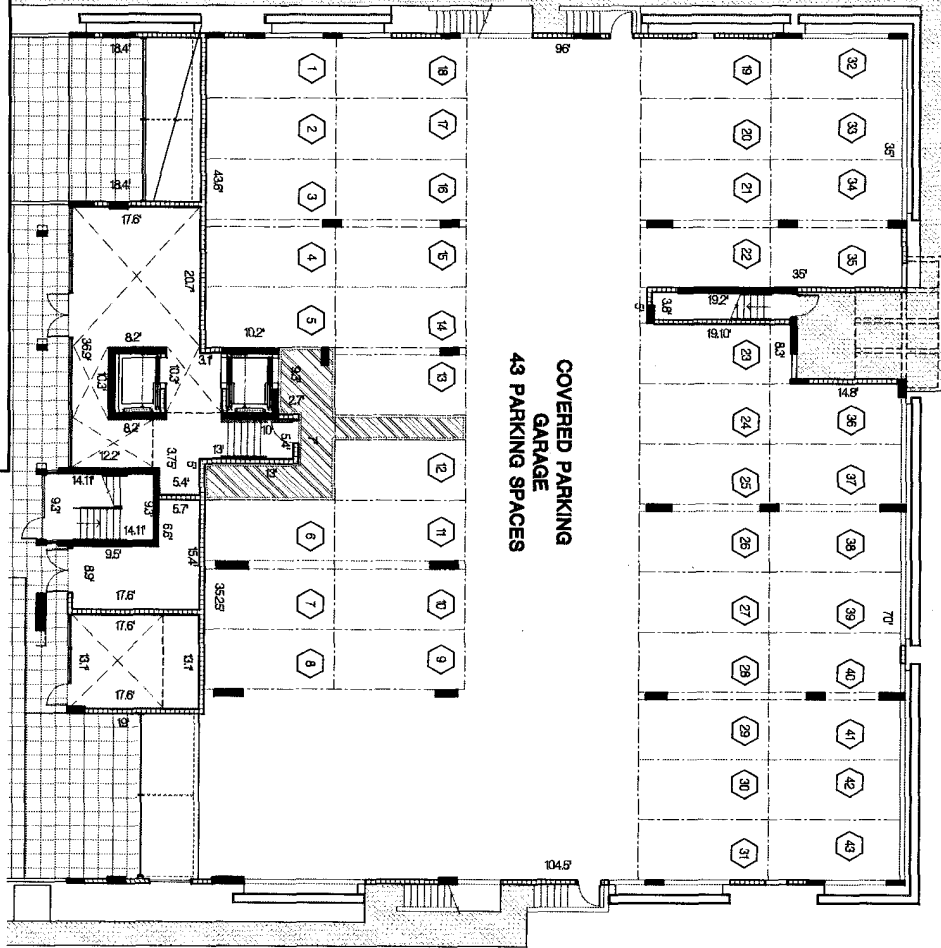
SCALE: 1" = 30'

N  
LEVEL 1

FRANKEL BENAYOUN  
ARCHITECTS INC.  
1025 - 92ND STREET  
BAY HARBOR ISLAND, FLORIDA 33594

BAY HARBOR CLUB CONDOMINIUM

1025 - 92ND STREET  
BAY HARBOR ISLAND, FLORIDA 33594



LEGEND



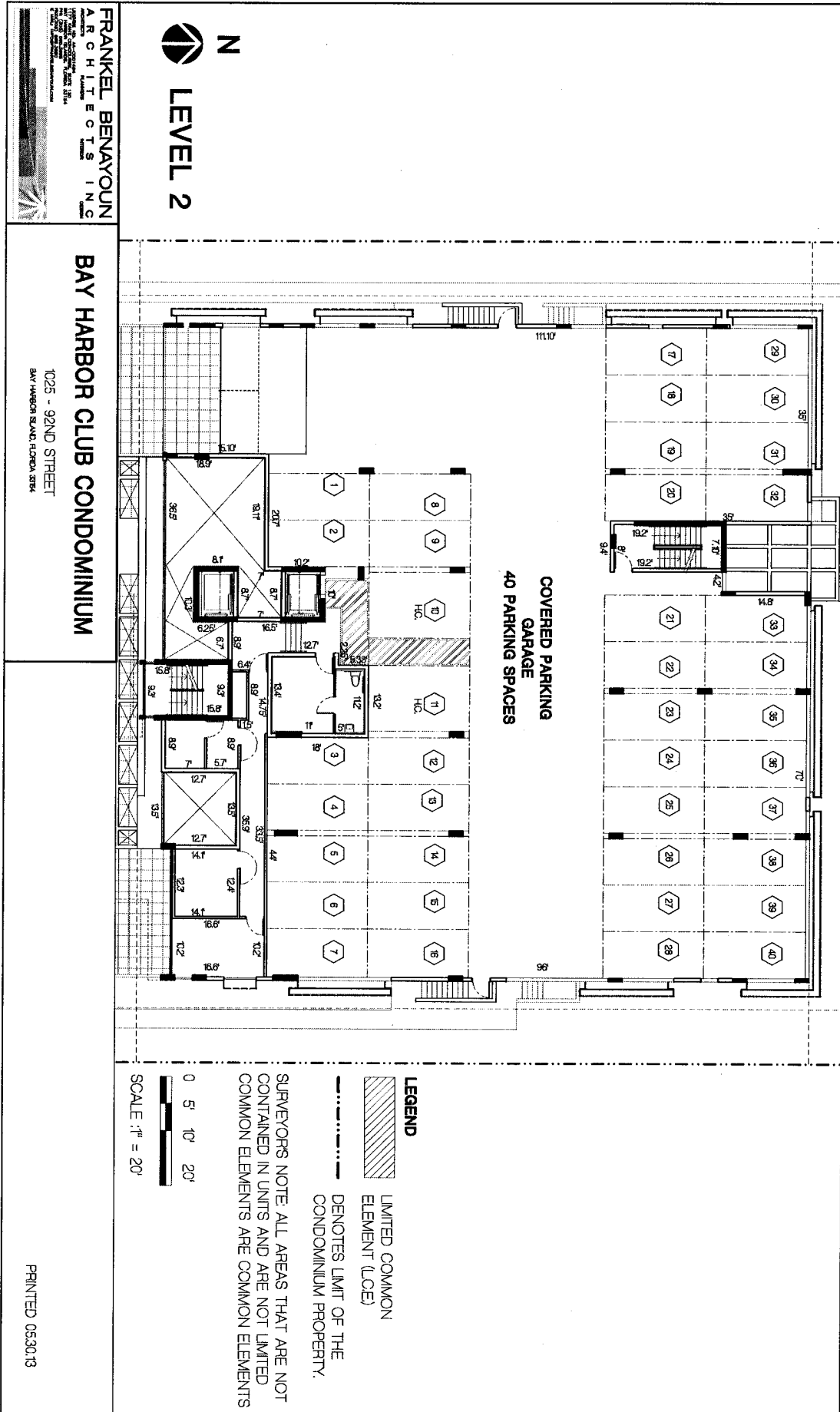
LIMITED COMMON  
ELEMENT (LCE)  
DENOTES LIMIT OF THE  
CONDOMINIUM PROPERTY.

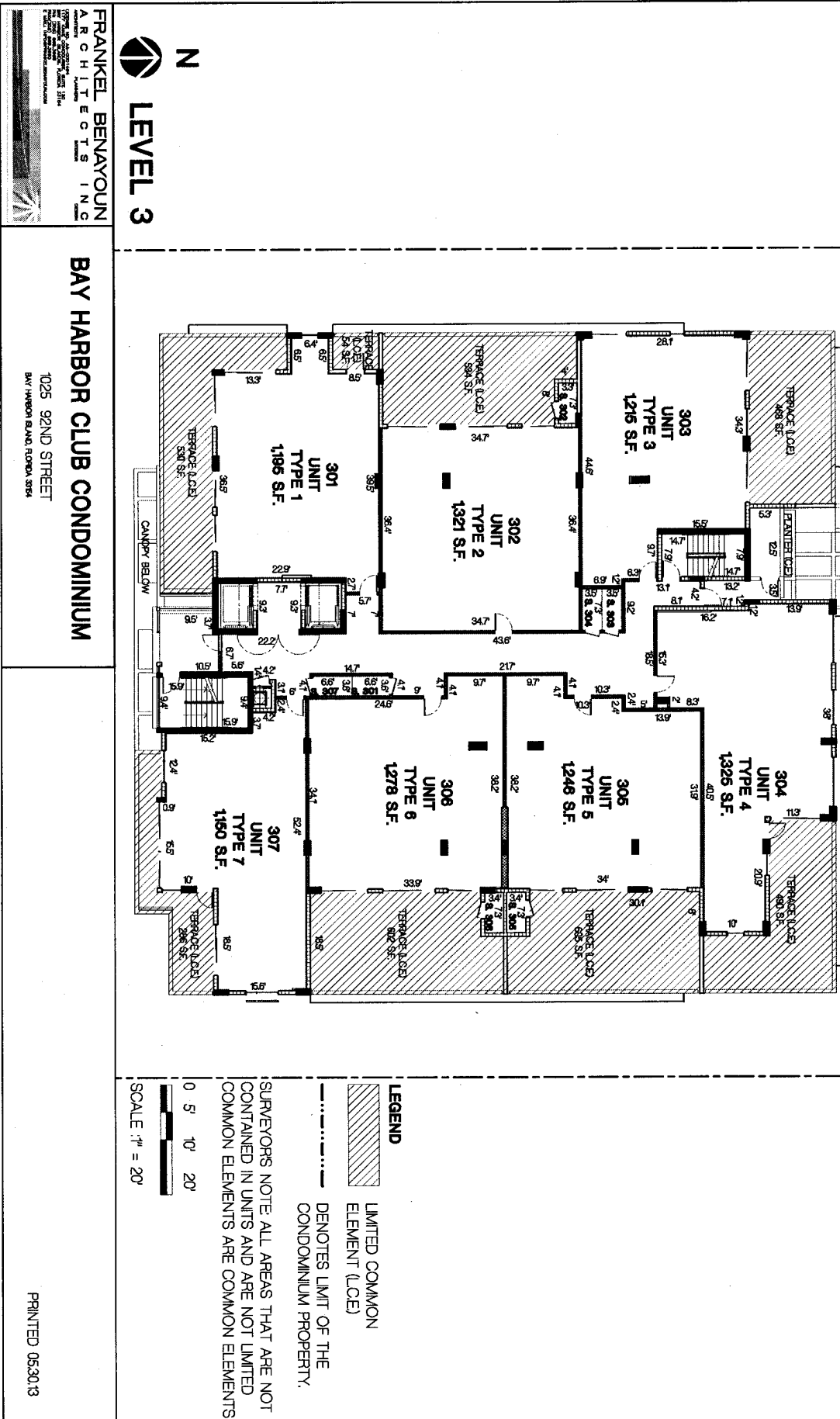
SURVEYORS NOTE: ALL AREAS THAT ARE NOT  
CONTAINED IN UNITS AND ARE NOT LIMITED  
COMMON ELEMENTS ARE COMMON ELEMENTS

0 5' 10' 20'

SCALE: 1" = 20'

PRINTED 05/30/13





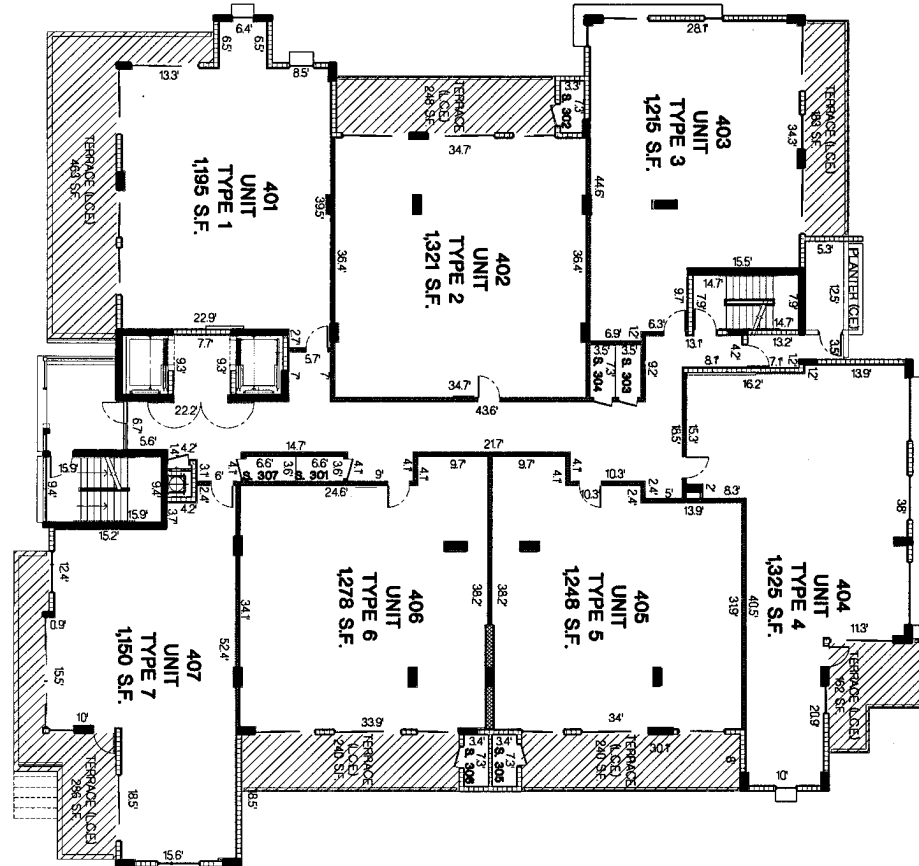


# LEVEL 4

FRANKEL BENAYOUN  
ARCHITECTS INC.  
1000 N. W. 10TH AVENUE, SUITE 1000  
MIAMI, FLORIDA 33136  
TEL: (305) 571-1111  
FAX: (305) 571-1112  
WWW.FRANKELBENAYOUN.COM

## BAY HARBOR CLUB CONDOMINIUM

1025 - 92ND STREET  
BAY HARBOR ISLAND, FLORIDA 33564



### LEGEND

LIMITED COMMON  
ELEMENT (L.C.E.)

DENOTES LIMIT OF THE  
CONDOMINIUM PROPERTY.

SURVEYORS NOTE: ALL AREAS THAT ARE NOT  
CONTAINED IN UNITS AND ARE NOT LIMITED  
COMMON ELEMENTS ARE COMMON ELEMENTS

0 5' 10' 20'

SCALE: 1" = 20'

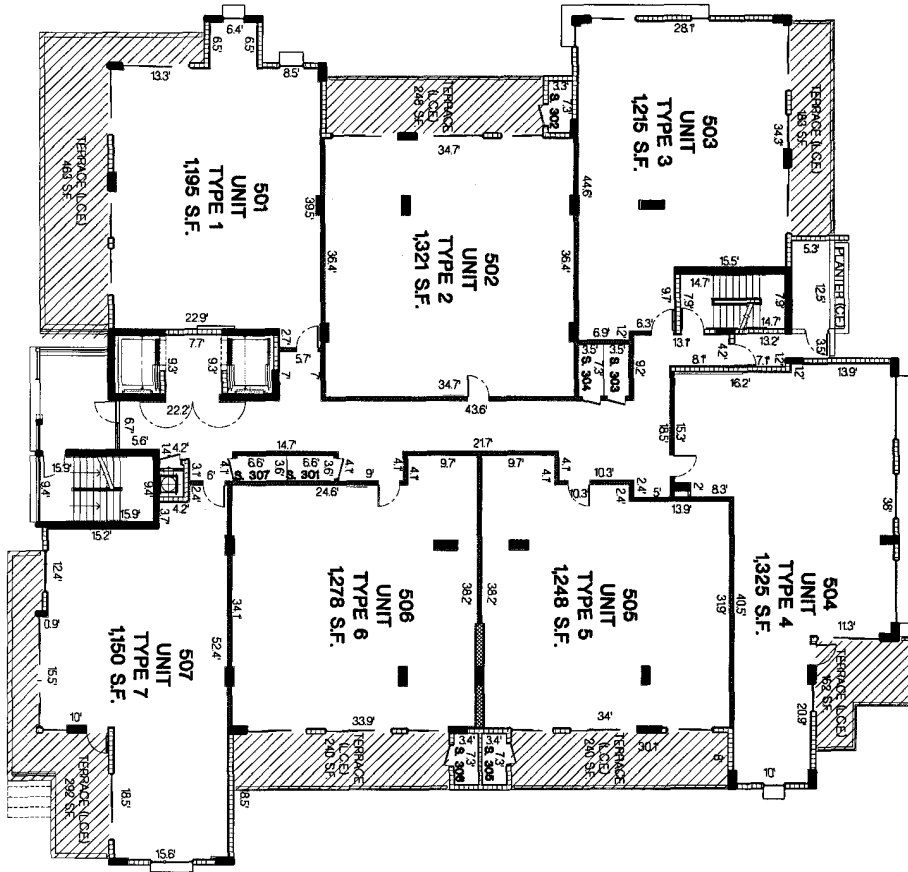
PRINTED 05.30.13

**N**  
**LEVEL 5**

**FRANKEL BENAYOUN**  
**ARCHITECTS INC.**  
1025 - 92ND STREET  
BAY HARBOR BEACH, FLORIDA 33434  
TEL: 305.444.1111  
WWW.FRANKELBENAYOUN.COM

**BAY HARBOR CLUB CONDOMINIUM**

1025 - 92ND STREET  
BAY HARBOR BEACH, FLORIDA 33434



**LEGEND**

LIMITED COMMON ELEMENT (LCE)

DENOTES LIMIT OF THE CONDOMINIUM PROPERTY.

SURVEYORS NOTE: ALL AREAS THAT ARE NOT CONTAINED IN UNITS AND ARE NOT LIMITED COMMON ELEMENTS ARE COMMON ELEMENTS



SCALE: 1" = 20'

PRINTED 05.30.13

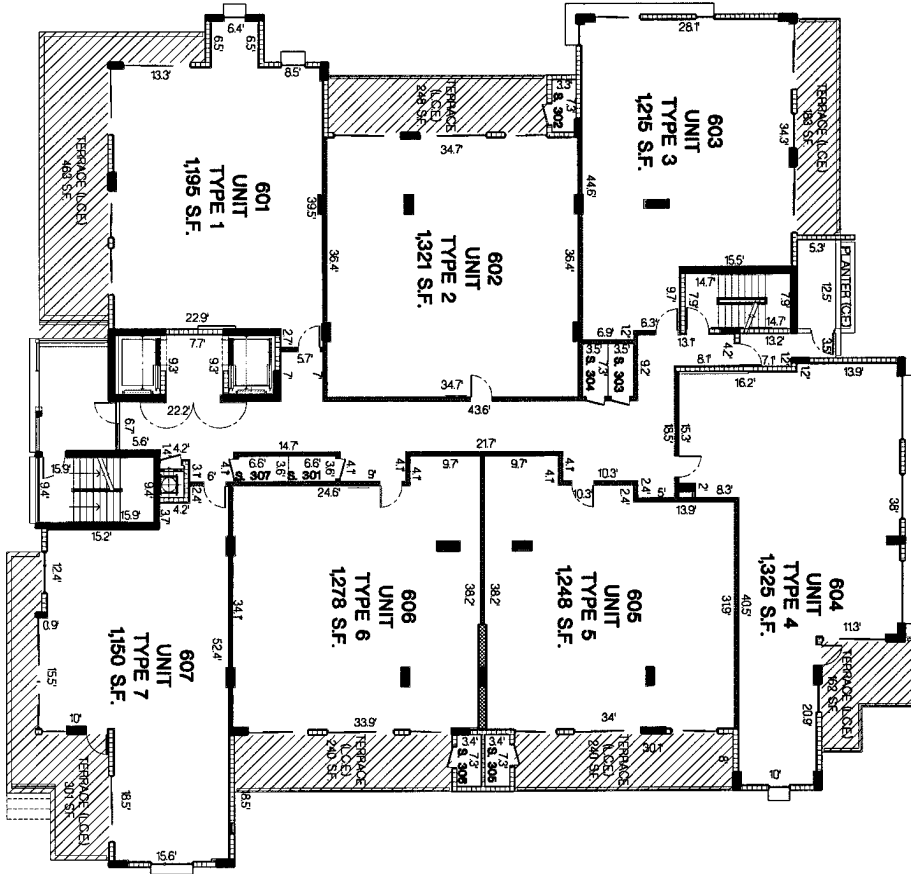


# LEVEL 6


FRANKEL BENAYOUN  
ARCHITECTS INC.  
10000 W. BOULEVARD  
SUITE 200  
DADE COUNTY, FLORIDA 33154  
TEL: (305) 444-1111  
FAX: (305) 444-1112  
WWW.FRANKELBENAYOUN.COM


## BAY HARBOR CLUB CONDOMINIUM

1025 - 92ND STREET  
BAY HARBOR ISLAND, FLORIDA 3354

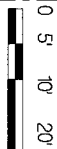


### LEGEND

 LIMITED COMMON  
ELEMENT (LCE)

 DENOTES LIMIT OF THE  
CONDOMINIUM PROPERTY.

SURVEYORS NOTE: ALL AREAS THAT ARE NOT  
CONTAINED IN UNITS AND ARE NOT LIMITED  
COMMON ELEMENTS ARE COMMON ELEMENTS



SCALE : 1" = 20'

PRINTED 05.30.13

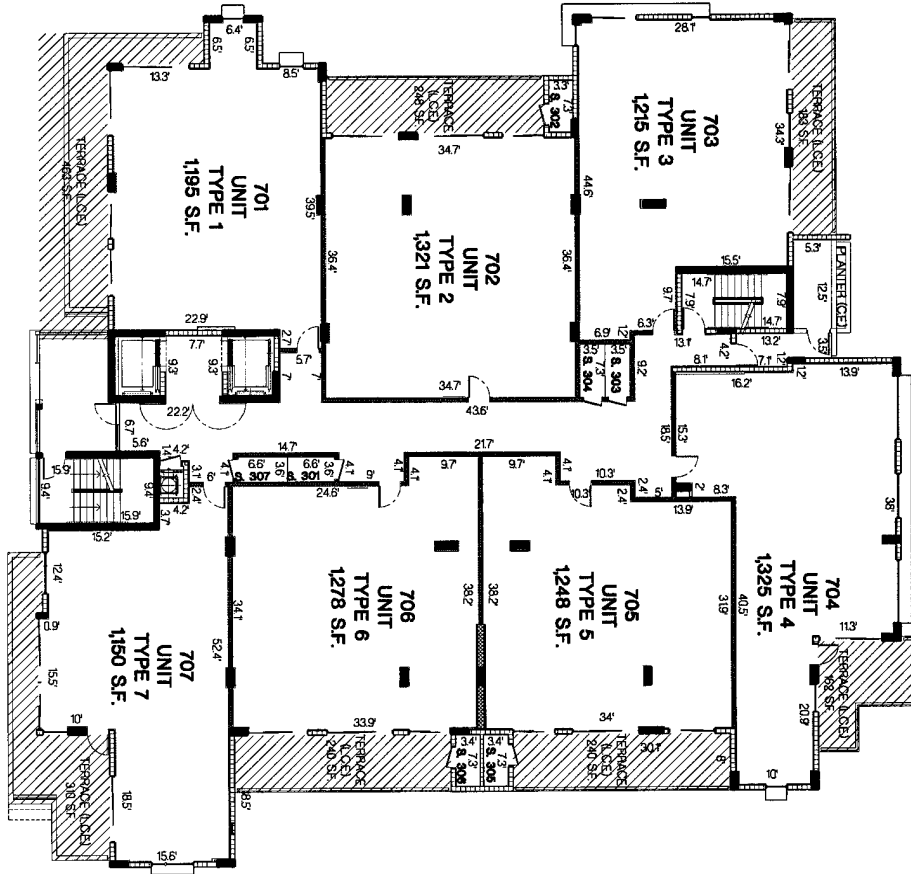
**N**  
**LEVEL 7**

**FRANKEL BENAYOUN  
ARCHITECTS INC**  
REGISTERED ARCHITECTS  
10000 BAYVIEW BLVD., SUITE 1000  
BAYVIEW, FL 33154  
TEL: 305.444.1111  
FAX: 305.444.1112  
WWW.FRANKELBENAYOUN.COM



**BAY HARBOR CLUB CONDOMINIUM**

1025 - 92ND STREET  
BAY HARBOR ISLAND, FLORIDA 3354

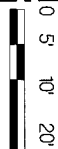


**LEGEND**

LIMITED COMMON ELEMENT (LCE)

DENOTES LIMIT OF THE CONDOMINIUM PROPERTY.

SURVEYORS NOTE: ALL AREAS THAT ARE NOT CONTAINED IN UNITS AND ARE NOT LIMITED COMMON ELEMENTS ARE COMMON ELEMENTS



SCALE : 1" = 20'

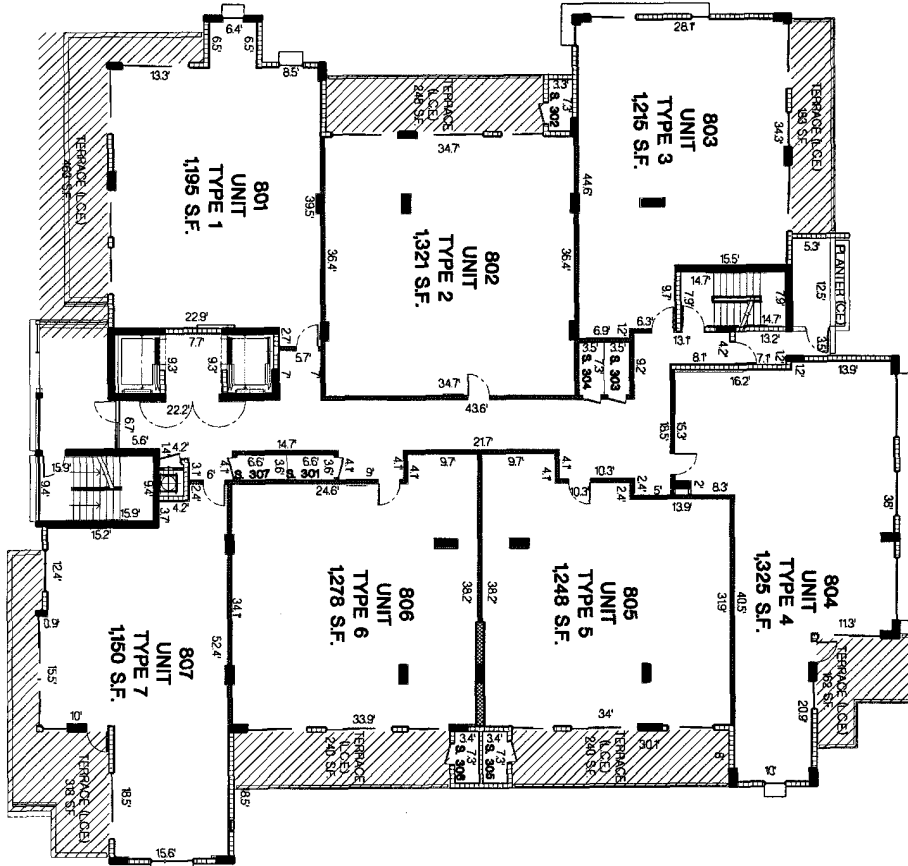
PRINTED 05.30.13

**LEVEL 8**

FRANKEL BENAYOUN  
ARCHITECTS INC.  
1025 - 92ND STREET  
BAY HARBOR ISLAND, FLORIDA 3354

**BAY HARBOR CLUB CONDOMINIUM**

1025 - 92ND STREET  
BAY HARBOR ISLAND, FLORIDA 3354



**LEGEND**

UNITED COMMON  
ELEMENT (U.C.E.)

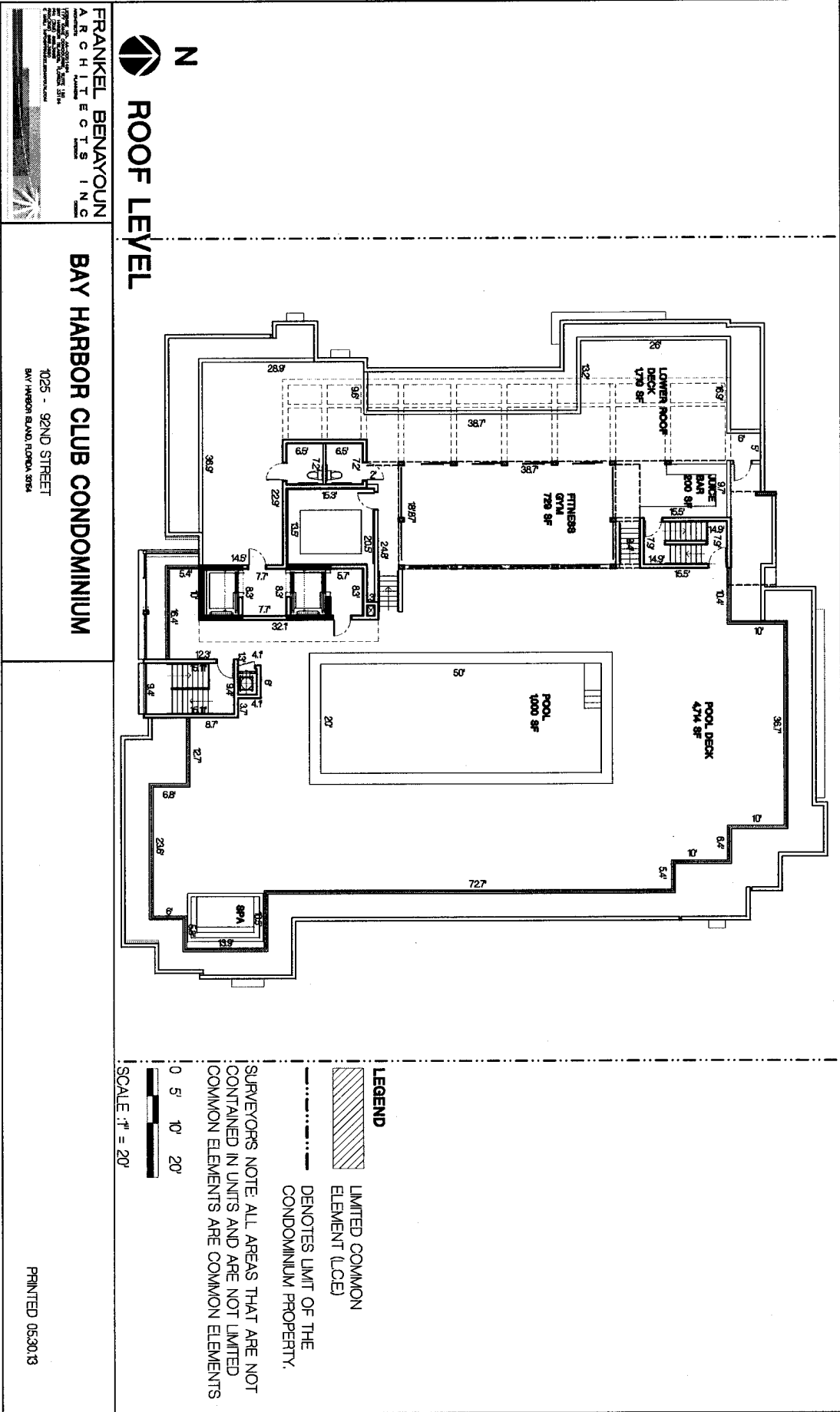
DENOTES LIMIT OF THE  
CONDOMINIUM PROPERTY.

SURVEYORS NOTE: ALL AREAS THAT ARE NOT  
CONTAINED IN UNITS AND ARE NOT LIMITED  
COMMON ELEMENTS ARE COMMON ELEMENTS



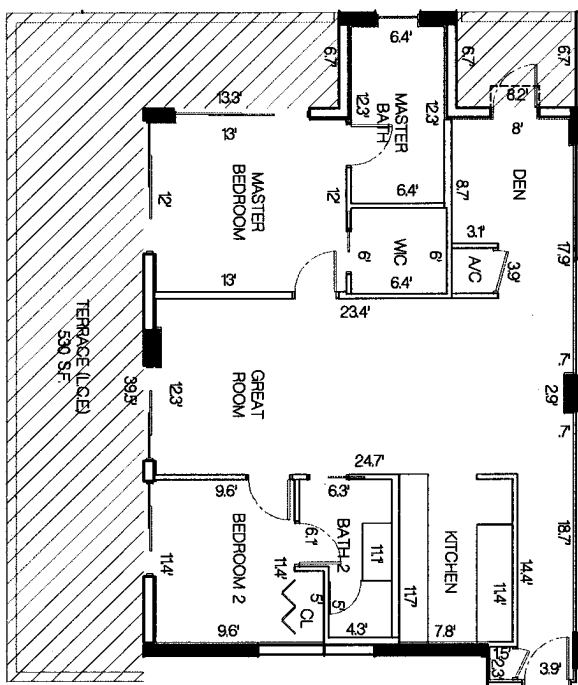
SCALE: 1" = 20'

PRINTED 05.30.13



# BAY HARBOR CLUB CONDOMINIUM

1025 - 92 ND STREET  
BAY HARBOR ISLAND, FLORIDA 33564



**1,195 S.F.**  
(UNIT 30)

## LEGEND

 LIMITED COMMON  
ELEMENT (L.C.E.)

DENOTES LIMIT OF THE  
CONDOMINIUM PROPERTY.

SURVEYORS NOTE: ALL AREAS THAT ARE NOT CONTAINED IN UNITS AND ARE NOT LIMITED COMMON ELEMENTS ARE COMMON ELEMENTS

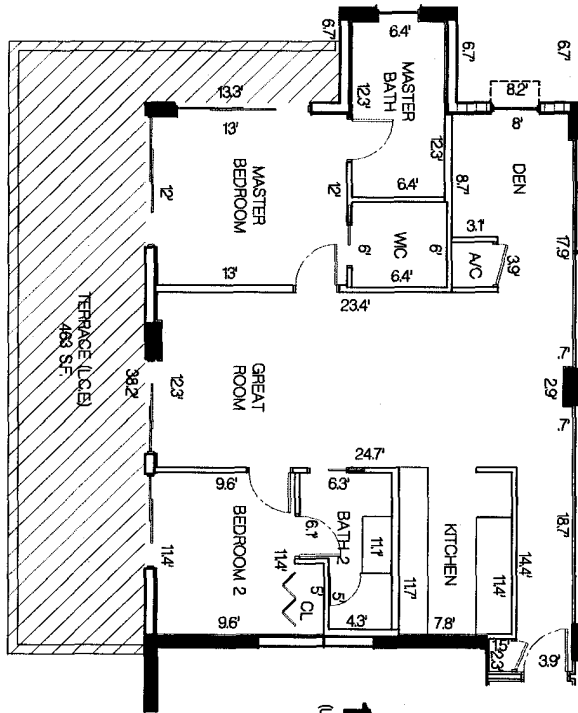
PRINTED 05.30.13

**BAY HARBOR CLUB CONDOMINIUM**

1025 - 92 ND STREET  
BAY HARBOR BLVD, FORTLA 3264



**UNIT # 1 LEVELS 4 - 8 (TYPICAL)**



**1,195 S.F.**  
(UNITS 401, 501, 601, 701, 801)

**LEGEND**



LIMITED COMMON  
ELEMENT (L.C.E.)

DENOTES LIMIT OF THE  
CONDOMINIUM PROPERTY.

SURVEYORS NOTE: ALL AREAS THAT ARE NOT  
CONTAINED IN UNITS AND ARE NOT LIMITED  
COMMON ELEMENTS ARE COMMON ELEMENTS

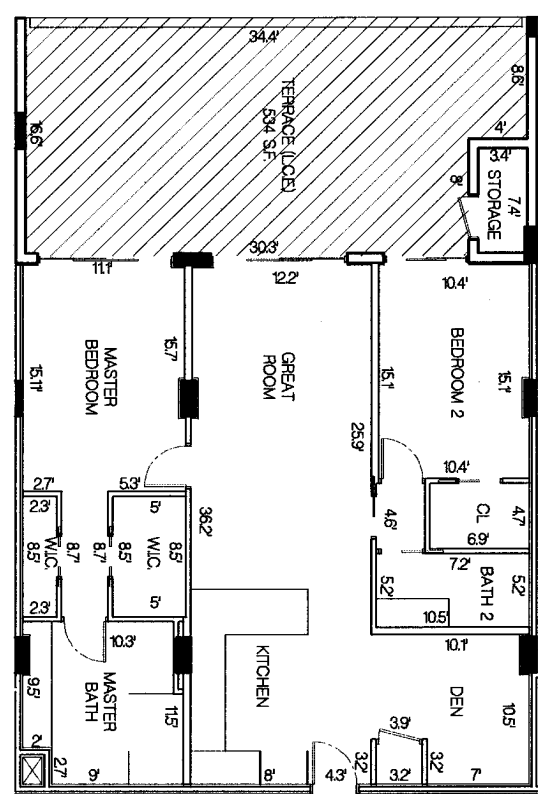
PRINTED 06.30.13

**BAY HARBOR CLUB CONDOMINIUM**

1025 - 92 ND STREET  
 BAY HARBOR BLVD, FLORIDA 33154

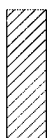


**UNIT # 2A LEVEL 3**



**1,321 S.F.**  
 (UNIT 302)

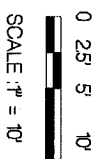
**LEGEND**



LIMITED COMMON  
 ELEMENT (L.C.E.)

DENOTES LIMIT OF THE  
 CONDOMINIUM PROPERTY.

SURVEYORS NOTE: ALL AREAS THAT ARE NOT  
 CONTAINED IN UNITS AND ARE NOT LIMITED  
 COMMON ELEMENTS ARE COMMON ELEMENTS



PRINTED 06.30.13

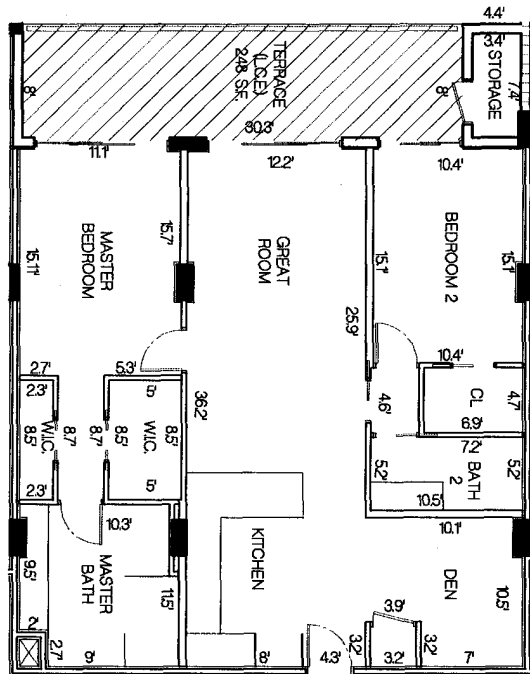


UNIT # 2 LEVELS 4 - 8 (TYPICAL)

FRANKEL BENAYOUN  
ARCHITECTS INC.  
10000 BAYVIEW BLVD. SUITE 300  
BAYVIEW, MI 48064  
734.461.1111  
www.frankelbenayoun.com

BAY HARBOR CLUB CONDOMINIUM

1025 - 92 ND STREET  
BAY HARBOR BLVD. FLORENCE ST. W.



1,321 S.F.  
(UNITS 402, 502, 602,  
702, 802)

LEGEND



LIMITED COMMON  
ELEMENT (LCE)

DENOTES LIMIT OF THE  
CONDOMINIUM PROPERTY.

SURVEYORS NOTE: ALL AREAS THAT ARE NOT  
CONTAINED IN UNITS AND ARE NOT LIMITED  
COMMON ELEMENTS ARE COMMON ELEMENTS

0 25' 5' 10'  
SCALE: 1" = 10'

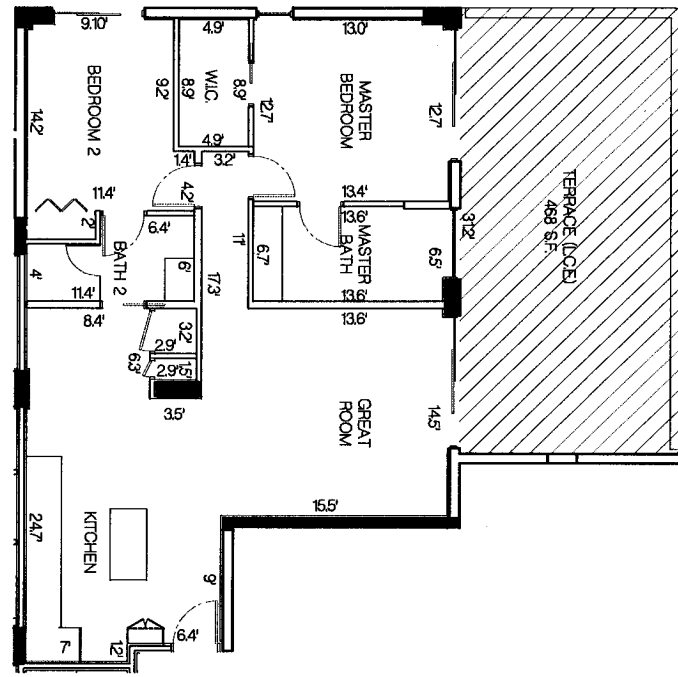
PRINTED 05/30/13

BAY HARBOR CLUB CONDOMINIUM

1025 - 92 ND STREET  
BAY HARBOR BLVD, FLORIDA 334

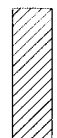


UNIT # 3A LEVEL 3



1,215 S.F.  
(UNIT 303)

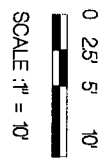
LEGEND



LIMITED COMMON  
ELEMENT (LCE)

DENOTES LIMIT OF THE  
CONDOMINIUM PROPERTY.

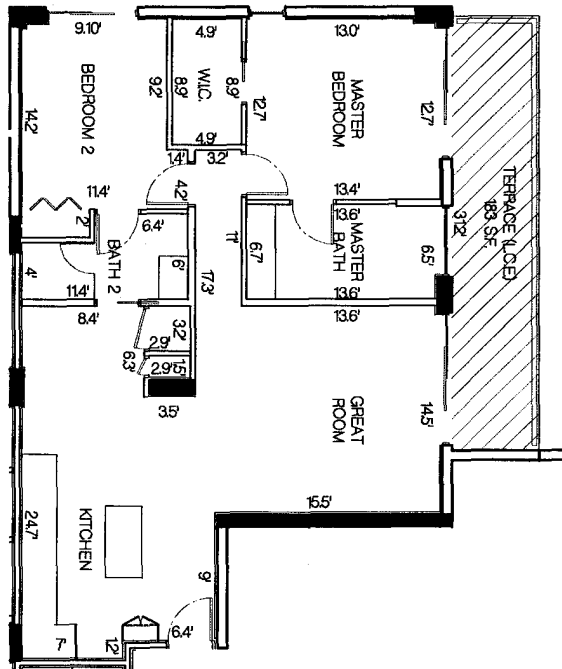
SURVEYORS NOTE: ALL AREAS THAT ARE NOT  
CONTAINED IN UNITS AND ARE NOT LIMITED  
COMMON ELEMENTS ARE COMMON ELEMENTS



PRINTED 05.30.13

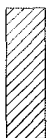
**BAY HARBOR CLUB CONDOMINIUM**  
1025 - 92 ND STREET  
BAY HARBOR ISLAND, FLORIDA 33434

**UNIT # 3 LEVELS 4 - 8 (TYPICAL)**



**1,215 S.F.**  
(UNITS 403, 503, 603,  
703, 803)

**LEGEND**

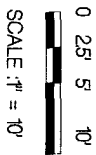


LIMITED COMMON  
ELEMENT (LCE)

DENOTES LIMIT OF THE  
CONDOMINIUM PROPERTY.

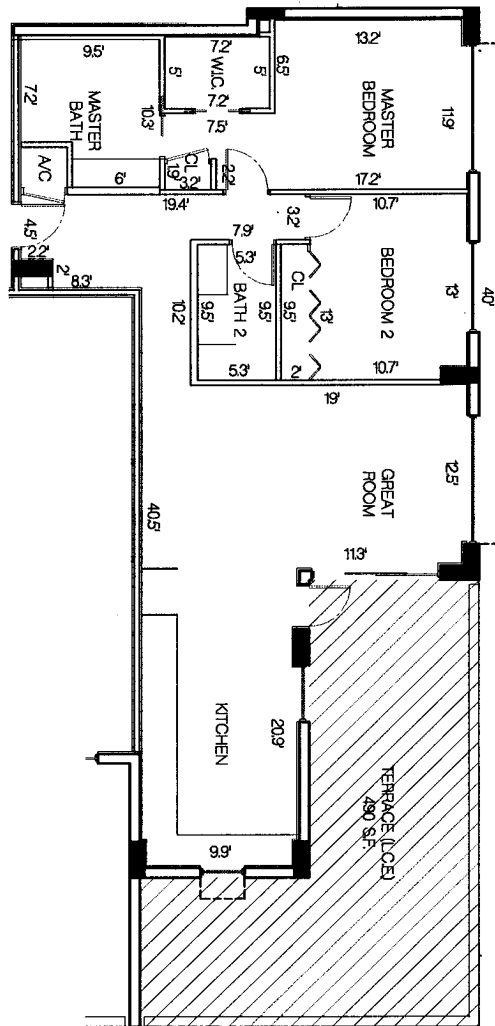
SURVEYORS NOTE: ALL AREAS THAT ARE NOT  
CONTAINED IN UNITS AND ARE NOT LIMITED  
COMMON ELEMENTS ARE COMMON ELEMENTS

PRINTED 05.30.13





# UNIT # 4A LEVEL 3



0 2.5' 5' 10'  
SCALE: 1" = 10'

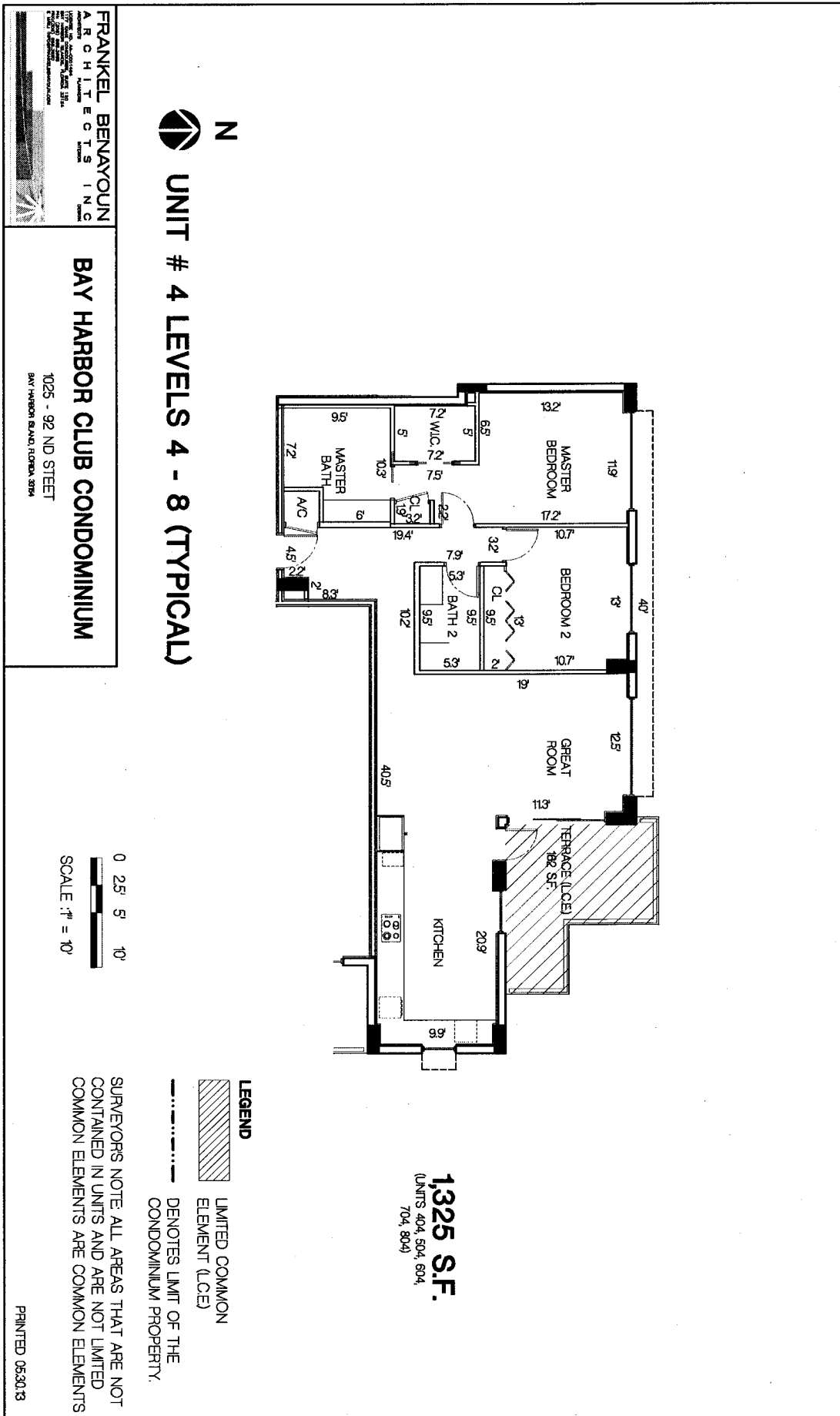
SURVEYOR'S NOTE: ALL AREAS THAT ARE NOT CONTAINED IN UNITS AND ARE NOT LIMITED COMMON ELEMENTS ARE COMMON ELEMENTS

PRINTED 05.30.13

**FRANKEL BENAYOUN**  
ARCHITECTS INC.  
1025 - 92 ND STREET  
BAY HARBOR BLVD, FLORENCE, FL 34432  
TEL: 904.666.1111  
WWW.FRANKELBENAYOUN.COM

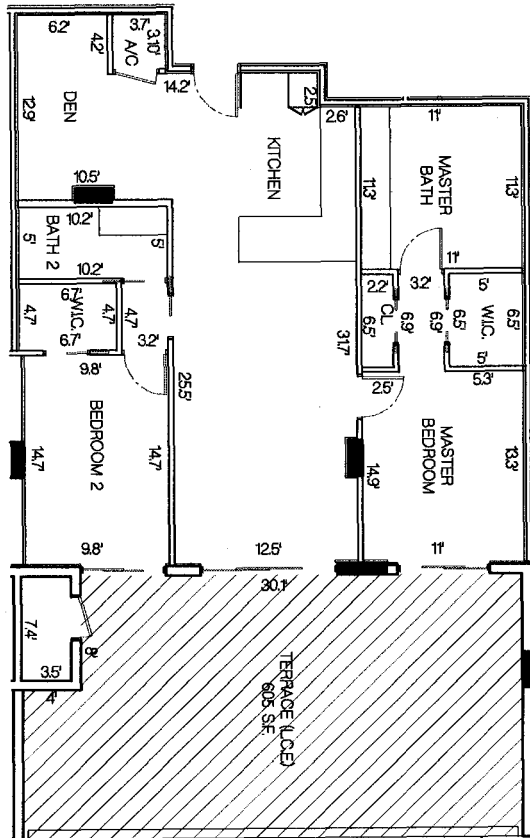
## BAY HARBOR CLUB CONDOMINIUM

1025 - 92 ND STREET  
BAY HARBOR BLVD, FLORENCE, FL 34432



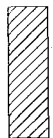


UNIT # 5A LEVEL 3



1,246 S.F.  
(UNIT 305)

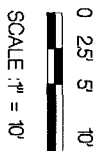
LEGEND



LIMITED COMMON  
ELEMENT (L.C.E.)

--- DENOTES LIMIT OF THE  
CONDOMINIUM PROPERTY.

SURVEYORS NOTE: ALL AREAS THAT ARE NOT  
CONTAINED IN UNITS AND ARE NOT LIMITED  
COMMON ELEMENTS ARE COMMON ELEMENTS



FRANKEL BENAYOUN  
ARCHITECTS INC.  
1025 - 92 ND STREET  
BAY HARBOR BEACH, FLORIDA 33434

BAY HARBOR CLUB CONDOMINIUM

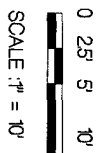
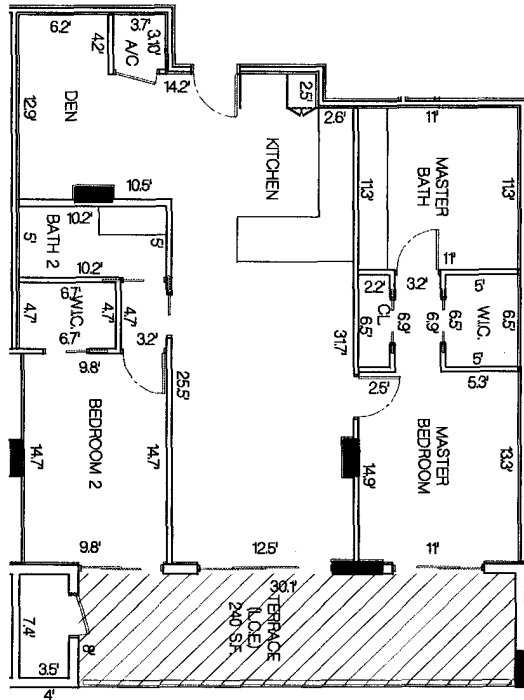
1025 - 92 ND STREET  
BAY HARBOR BEACH, FLORIDA 33434

PRINTED 05.30.13

**FRANKEL BENAYOUN**  
**ARCHITECTS INC.**  
 10000 BAYHARBOR BLVD SUITE 200  
 BAY HARBOR BLVD, FLORIDA 33444  
 TEL: 772-225-1100  
 FAX: 772-225-1101

**BAY HARBOR CLUB CONDOMINIUM**  
 1025 - 92 ND STREET  
 BAY HARBOR BLVD, FLORIDA 33444

**UNIT # 5 LEVELS 4 - 8 (TYPICAL)**



**LEGEND**  
 LIMITED COMMON ELEMENT (LCE)  
 DENOTES LIMIT OF THE CONDOMINIUM PROPERTY.

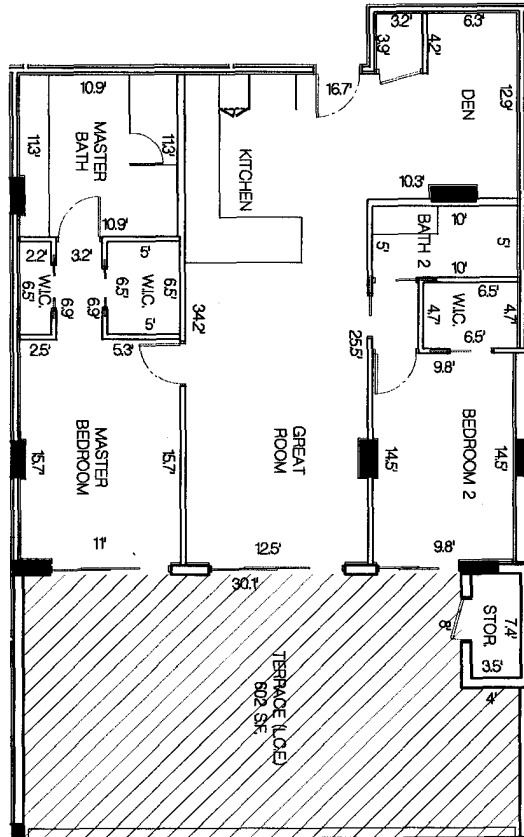
SURVEYORS NOTE: ALL AREAS THAT ARE NOT CONTAINED IN UNITS AND ARE NOT LIMITED COMMON ELEMENTS ARE COMMON ELEMENTS

PRINTED 05.30.13

**1,246 S.F.**  
 (UNITS 405, 505, 605, 705, 805)

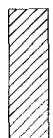


# UNIT # 6A LEVEL 3



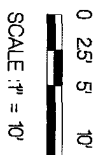
1278 S.F.  
(UNIT 306)

## LEGEND



LIMITED COMMON  
ELEMENT (LCE)

--- DENOTES LIMIT OF THE  
CONDOMINIUM PROPERTY.



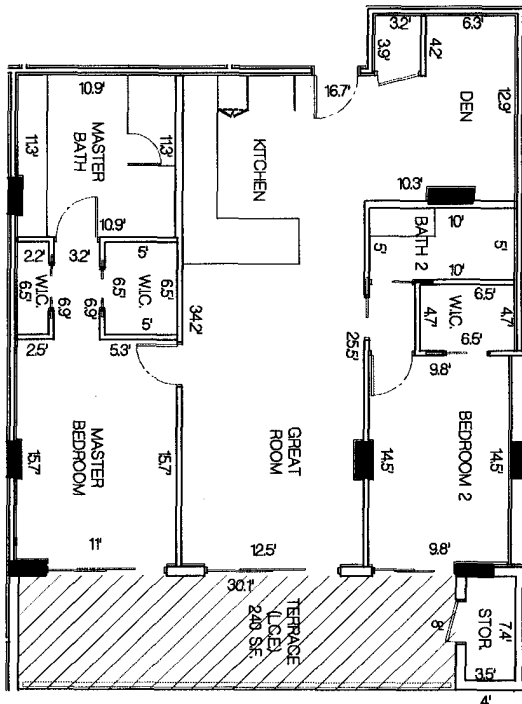
SURVEYORS NOTE: ALL AREAS THAT ARE NOT  
CONTAINED IN UNITS AND ARE NOT LIMITED  
COMMON ELEMENTS ARE COMMON ELEMENTS

PRINTED 05.30.13

FRANKEL BENAYOUN  
ARCHITECTS INC.  
1025 - 92 ND STREET  
BAY HARBOR BLVD, FLORIDA 3364

## BAY HARBOR CLUB CONDOMINIUM

1025 - 92 ND STREET  
BAY HARBOR BLVD, FLORIDA 3364

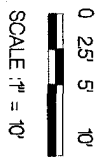


**UNIT # 6 LEVELS 4 - 8 (TYPICAL)**

**FRANKEL BENAYOUN**  
ARCHITECTS INC.  
1025 - 92 ND STREET  
BAY HARBOR BLVD, FLORIDA 3364

**BAY HARBOR CLUB CONDOMINIUM**

1025 - 92 ND STREET  
BAY HARBOR BLVD, FLORIDA 3364



**LEGEND**

LIMITED COMMON ELEMENT (LCE)

DENOTES LIMIT OF THE CONDOMINIUM PROPERTY.

SURVEYORS NOTE: ALL AREAS THAT ARE NOT CONTAINED IN UNITS AND ARE NOT LIMITED COMMON ELEMENTS ARE COMMON ELEMENTS

**1,278 S.F.**  
(UNITS 406, 506, 606,  
706, 806 )

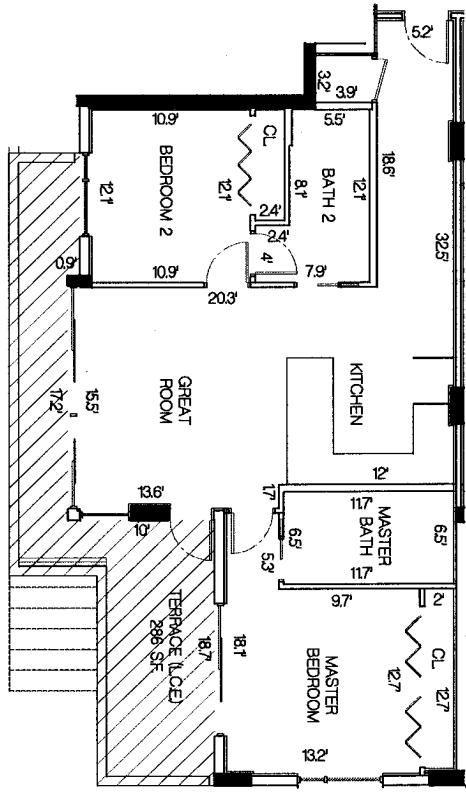
PRINTED 05.30.13



UNIT # 7A LEVEL 3


BAY HARBOR CLUB CONDOMINIUM

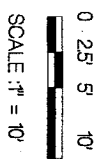
1025 - 92 ND STREET  
BAY HARBOR BLVD, FLORIDA 3364



1,150 S.F.  
(UNIT 307)

LEGEND

-  LIMITED COMMON ELEMENT (L.C.E.)
-  DENOTES LIMIT OF THE CONDOMINIUM PROPERTY.



SURVEYORS NOTE: ALL AREAS THAT ARE NOT CONTAINED IN UNITS AND ARE NOT LIMITED COMMON ELEMENTS ARE COMMON ELEMENTS

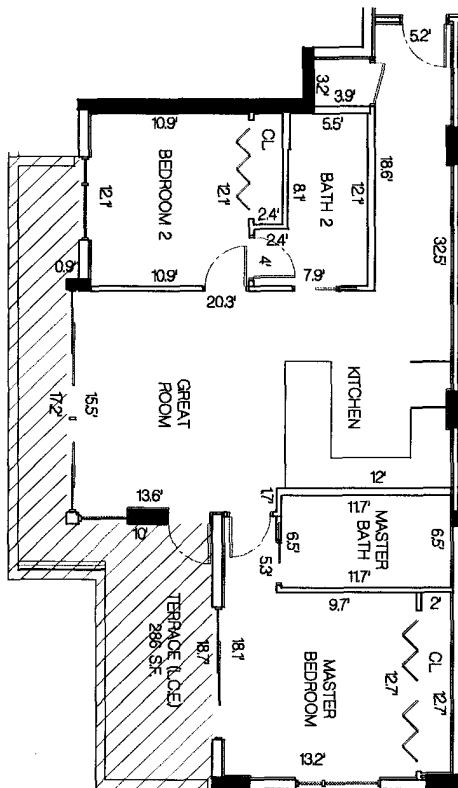
PRINTED 05.30.13

**BAY HARBOR CLUB CONDOMINIUM**

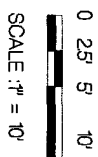
1025 - 92 ND STREET  
 BAY HARBOR BLVD, FORTNA, FL 33934



**UNIT # 7 LEVELS 4 - 8 (TYPICAL)**



**1,150 S.F.**  
 (UNITS 407, 507, 607,  
 707, 807)



**LEGEND**

LIMITED COMMON  
 ELEMENT (LCE)

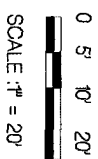
DENOTES UNIT OF THE  
 CONDOMINIUM PROPERTY.

SURVEYORS NOTE: ALL AREAS THAT ARE NOT  
 CONTAINED IN UNITS AND ARE NOT LIMITED  
 COMMON ELEMENTS ARE COMMON ELEMENTS

PRINTED 05.30.13

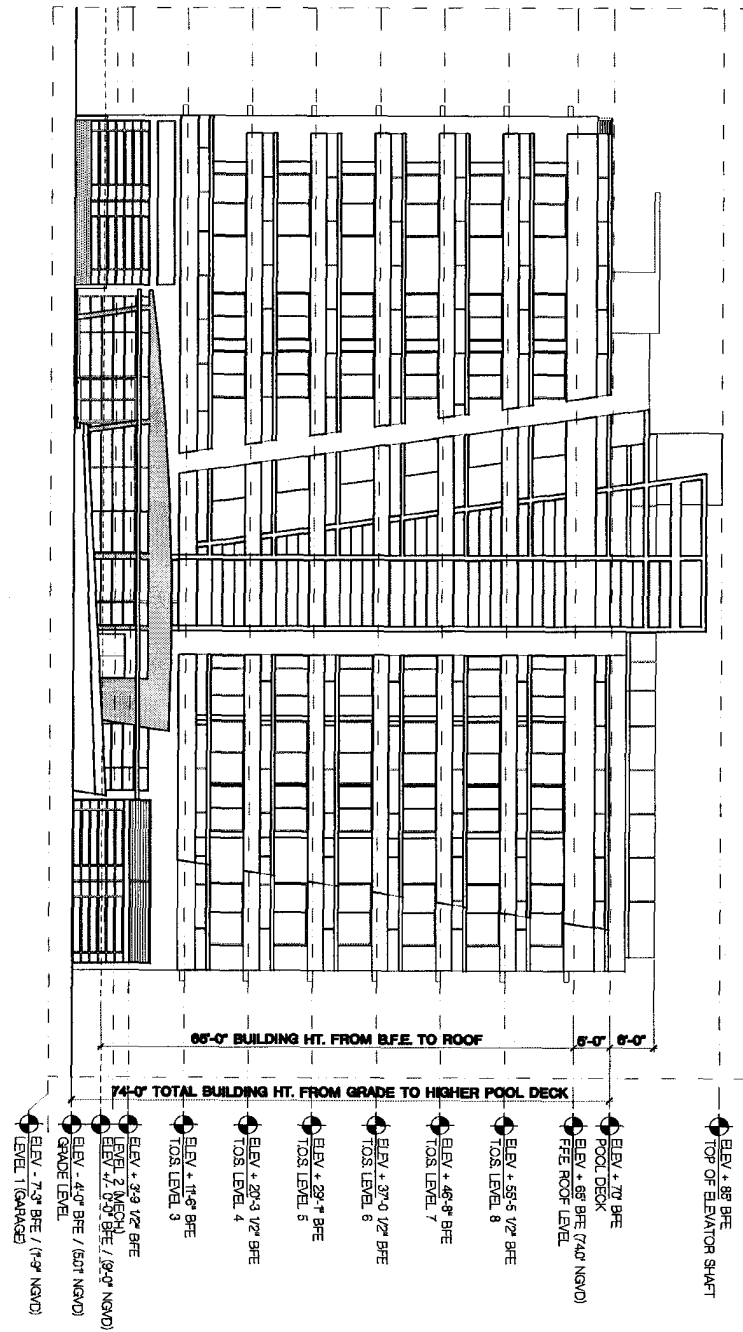
**BAY HARBOR CLUB CONDOMINIUM**

1025 92ND STREET  
 BAY HARBOR BLVD, FLORIDA 33154



**SOUTH ELEVATION**

PRINTED 06/2018





**DECLARATION OF CONDOMINIUM  
OF BAY HARBOR CLUB CONDOMINIUM**

**EXHIBIT 3**

**Unit Owners' Percentage Interest in Common Elements,  
Common Expenses and Common Surplus**

**Unit Owners' Percentage Interest in Common Elements,  
Common Expenses and Common Surplus**

<u>Unit Type</u>	<u>Ownership Percentage</u>	<u>Total for Unit Type</u>
A	1/42	6/42
B	1/42	6/42
C	1/42	6/42
D	1/42	6/42
E	1/42	6/42
F	1/42	6/42
G	1/42	6/42
<b>Total</b>	<b>42/42 = 100%</b>	

**DECLARATION OF CONDOMINIUM  
OF BAY HARBOR CLUB CONDOMINIUM**

**EXHIBIT 4**

**Articles of Incorporation of  
Bay Harbor Club Association, Inc.,  
a Florida not-for-profit corporation**

**ARTICLES OF INCORPORATION**  
**OF**  
**BAY HARBOR CLUB ASSOCIATION, INC.**

---

The undersigned, by these Articles, hereby form this not-for-profit corporation under the laws of the State of Florida, pursuant to Chapter 617, Florida Statutes, and certify as follows:

**ARTICLE I - NAME**

The name of the corporation is BAY HARBOR CLUB ASSOCIATION, INC. For convenience, the Corporation shall be referred to in this instrument as "the Association."

**ARTICLE II - PURPOSES AND POWERS**

The Association does not contemplate pecuniary gain or profit to the members thereof. The specific purposes for which the Association is formed are to provide for maintenance, preservation and architectural control of the condominium units and common elements within Bay Harbor Club Condominium (hereinafter referred to as "Condominium") more particularly described in the Declaration of Condominium for Bay Harbor Club Condominium (hereinafter, "the Declaration of Condominium"), and to promote the health, safety and welfare of the residents within the Condominium and any additions. In order to effectuate these purposes, the Association shall have the power to exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the these Articles, the Association's By-laws, and the Declaration of Condominium recorded among the Public Records of Miami-Dade County, which powers and privileges shall include but are not limited to the following:

1. To fix, levy, collect and enforce payment of all appropriate charges or assessments by any lawful means;
2. To pay all expenses incident to the conduct of the business of the Association, including all licenses, taxes and governmental charges levied or imposed against the Common Elements;
3. To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of the Common Elements on behalf of the membership of the Association;
4. To borrow money and mortgage, pledge or hypothecate any or all of the Common Elements as security for money borrowed or debts incurred;

5. To participate in mergers and consolidations with other nonprofit corporations organized for the same purposes; and

6. To have and to exercise any and all powers, rights and privileges which a corporation organized under the Florida Not-for-Profit Corporation Law may now or hereafter have or exercise.

### **ARTICLE III - MEMBERSHIP AND VOTING**

A. **Membership**: Every person or entity who is a record owner of any Unit in the Condominium shall be a member of the Association. The foregoing does not include persons or entities that hold an interest merely as security for the performance of an obligation. Change of membership in the Association shall be established by recording in the Public Records of Florida, a deed or other instrument establishing a record title to any unit in a transferee and the delivery to the Association of a certified copy of such instrument. Upon such delivery, the transferee designated by such instrument shall become a member of the Association and the membership of the transferee shall be terminated.

B. **Appurtenance to Unit**: The share of a member in the funds and assets of the Association shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to his, her or its Unit.

C. **Voting Rights**: Each owner shall be entitled to one vote for each unit owned. When more than one person holds an interest or interests in any unit, the vote for such unit shall be limited to one vote as the owners among themselves determine. The manner of exercising voting rights shall be determined by the By-Laws of the Association.

D. **Meetings**: The By-Laws shall provide for meetings of the members.

### **ARTICLE IV - BOARD OF DIRECTORS**

A. **Membership of Board**: The affairs of this Association shall be managed by a Board consisting of the number of Directors determined by the By-Laws.

B. **Election and Removal**: Directors shall be elected at the annual meeting of the members in the manner determined by the By-Laws. Directors may be removed and vacancies on the Board shall be filled in the manner provided by the By-Laws.

C. **First Board of Directors**: The names and addresses of the persons who shall act in the capacity of Directors until their successors shall be elected and qualified are as follows:

<u>Name</u>	<u>Address</u>
Jorge Savloff	1111 Kane Concourse, Suite-217 Bay Harbor Islands, Florida 33154
Marcelo Tenenbaum	1111 Kane Concourse, Suite-217 Bay Harbor Islands, Florida 33154
Raul Fernandez	1111 Kane Concourse, Suite-217 Bay Harbor Islands, Florida 33154
Jose Piccardo	1111 Kane Concourse, Suite-217 Bay Harbor Islands, Florida 33154
German Previsdomini	1111 Kane Concourse, Suite-217 Bay Harbor Islands, Florida 33154

The Directors named above shall serve until the first election of Directors, as determined by the By-Laws and any vacancies in their number occurring before the first election of Directors shall be filled by act of the remaining Directors.

#### **ARTICLE V - OFFICERS**

The affairs of the Association shall be administered by the Officers designated in the By-Laws. After the first election of Directors, the Officers shall be elected by the Board at the first Board meeting following the annual meeting. Directors shall serve at the pleasure of the Board. The names and addresses of the officers who shall serve until their successors are designated by the Board are as follows:

<u>Name</u>	<u>Position</u>	<u>Address</u>
Jorge Savloff	President	1111 Kane Concourse Suite-217 Bay Harbor Islands, FL 33154
Marcelo Tenenbaum	Vice President/Secretary	1111 Kane Concourse Suite-217 Bay Harbor Islands, FL 33154

## **ARTICLE VI - INDEMNIFICATION**

Every Director and every Officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon the Director(s) or Officer(s) in connection with any proceeding or any settlement of any proceeding to which the Director(s) or Officer(s) may be a party or in which the Director(s) or Officer(s) may become involved by reason of his or her being or having been a Director or Officer of the Association, whether or not he or she is a Director or Officer of the Association at the time such expenses are incurred, except when the Director(s) or Officer(s) is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement, the indemnification shall apply only when the Board of Directors, exclusive of any Director(s) seeking indemnification, approves such settlement and reimbursement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled.

## **ARTICLE VII - BY-LAWS**

The By-Laws of the Association shall be adopted by the initial Board of Directors. The By-Laws may be amended in accordance with the provisions thereof, except that no portion of the By-Laws may be altered, amended, or rescinded in such a manner as would prejudice the rights of the Developer of the Condominium or mortgagees holding mortgages encumbering units in the Condominium, without their prior written consent.

## **ARTICLE VIII - AMENDMENTS**

Amendments to the Articles of Incorporation may be considered at any regular or special meeting of the members and may be adopted in the following manner:

1. By notice of the subject matter of a proposed amendment and of the meeting at which a proposed amendment is considered, which notice shall be made as required by the By-Laws.
2. By resolution for the adoption of a proposed amendment which may be proposed either by the Board or by a majority of the voting members. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. Such amendments must be approved by not less than sixty-seven (67%) percent of the votes of the voting members.
3. No amendment shall make any changes in the qualifications for membership or in the voting rights of members of the Association, without approval in writing by all members and the joinder of all record owners of mortgages encumbering the condominium units. No amendment shall be made that is in conflict with the Condominium Act or the Declaration of Condominium

## **ARTICLE IX - TERM**

The term of the Association shall be perpetual.

## **ARTICLE X - DISSOLUTION**

The Association may be dissolved with the assent given in writing and signed by not less than seventy-five percent (75%) of the voting members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created.

## **ARTICLE XI - INTENTIONALLY OMITTED**

## **ARTICLE XII - RESIDENT AGENT AND OFFICE**

A. The principal office of the Association shall be:

1111 Kane Concourse, Suite-217  
Bay Harbor Islands, Florida, 33154

or at such other place, within or without the States of Florida as may be subsequently designated by the Board of Directors

B. The name and street address of the Resident Agent of the Corporation is:

Louis A. Supraski, Esq.  
2450 NE Miami Gardens Drive, 2<sup>nd</sup> Floor  
North Miami Beach, Florida 33180

## **ARTICLE XIII - MISCELLANEOUS**

A. Stock. The Association shall issue no shares of stock of any kind or nature whatsoever.

B. Severability. Invalidation of any one or more of the provisions hereof shall in no way affect any other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned subscriber has executed these Articles of Incorporation of Bay Harbor Club Association, Inc. on this 11<sup>th</sup> day of July, 2013.

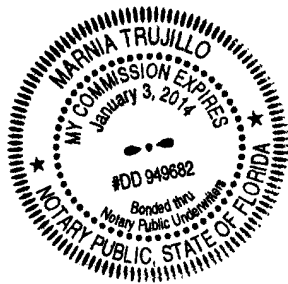
[Signature]

[Signature]  
LOUIS A. SUPRASKI, Incorporator

[Signature]

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of July, 2013, by LOUIS A. SUPRASKI, who is [ ] personally known to me or who has [ ] produced \_\_\_\_\_ as identification.

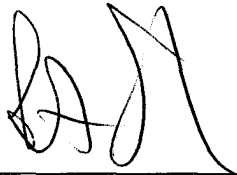


[Signature]  
NOTARY PUBLIC, State of Florida

### **ACKNOWLEDGEMENT AND ACCEPTANCE OF REGISTERED AGENT**

Having been named as registered agent and to accept service of process for the above stated Association, at the place designated in the Articles of Incorporation of Bay Harbor Club Association, Inc., the undersigned hereby accepts its obligation to act in this capacity, and agrees to comply with the provisions of Chapter 617, Florida Statutes, relative to keeping open said office.

July 11, 2013  
Date

  
\_\_\_\_\_  
LOUIS A. SUPRASKI, Registered Agent

**DECLARATION OF CONDOMINIUM  
OF BAY HARBOR CLUB CONDOMINIUM**

**EXHIBIT 5**

**By-Laws of  
Bay Harbor Club Association, Inc.**

**BY-LAWS**  
**OF**  
**BAY HARBOR CLUB ASSOCIATION, INC.**  
a not-for-profit Florida Corporation

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- 1) **Identity.** These are the By-Laws of BAY HARBOR CLUB ASSOCIATION, INC. (the "Association"), a corporation not for profit Incorporated under the laws of the State of Florida, and organized for the purposes set forth in its Articles of Incorporation.
  - 1.1 The principal office of the Association shall be 1111 Kane Concourse, Suite-217, Bay Harbor Islands, FL 33154, or such other place as may be subsequently designated by the Board of Directors.
  - 1.2 The seal of the Association shall bear the name of the corporation, the word "Florida", the words "Corporation Not for Profit", and the year of incorporation.
- 2) **Definitions.** For convenience, these By-Laws shall be referred to as the "By-Laws" and the Articles of Incorporation of the Association as the ("Articles"). The other terms used in these By-Laws shall have the same definitions and meanings as those set forth in the Declaration for Bay Harbor Club Condominium, unless herein provided to the contrary, or unless the context otherwise requires.
- 3) **Meetings**
  - 3.1 **Annual Meeting.** The annual members' meeting shall be held on July 1<sup>st</sup> of each year or such other date determined by the Board of Directors, at the place and at the time determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and, to the extent possible, no later than twelve (12) months after the last preceding annual meeting. The purpose of the meeting shall be, except as provided herein to the contrary, to elect Directors, and to transact any other business authorized to be transacted by the members, or as stated in the notice of the meeting sent to Unit Owners in advance thereof. Unless changed by the Board of Directors, the first annual meeting shall be held in the month of July following the year in which the Declaration is filed.
  - 3.2 **Special Meetings.** Special members' meetings shall be held at such place as provided herein for annual meetings, and may be called by the President or by a majority of the Board of Directors of the Association, and must be called by the President or Secretary upon receipt of a written request from a majority of the members of the Association. The business conducted at a special meeting shall be

limited to that stated in the notice of the meeting. Special meetings may also be called by Unit Owners in the manner provided for in the Condominium Act.

- 3.3 **Participation by Unit Owners.** Subject to reasonable restrictions as may be adopted from time to time by the Board of Directors, Unit Owners shall have the right to speak at the annual and special meetings of the Unit Owners, committee meetings and Board meetings with reference to all designated agenda items.
- 3.4 **Notice of Meeting; Waiver of Notice.** Notice of a meeting of members (annual or special), stating the time and place and the purpose(s) for which the meeting is called, shall be given by the President or Secretary. A copy of the notice shall be posted at a conspicuous place on the condominium Property at least 48 continuous hours before the meeting except in an emergency. Notices of the meetings of members shall be hand delivered or sent by regular mail to each Unit Owner, unless the Unit Owner waives in writing the right to receive notice of such meeting. The delivery or mailing shall be to the address of the member as it appears on the roster of members. The posting and mailing of the notice for either special or annual meetings, which notice shall include an agenda, shall be mailed or delivered not less than fourteen (14) days, nor more than sixty (60) days, prior to the date of the meeting. Further, the notice for the annual meeting shall be posted in a conspicuous place on the condominium property for fourteen (14) continuous days preceding the meeting.

Notice of specific meetings may be waived before or after the meeting and the attendance of any member (or person authorized to vote for such member), either in person or by proxy, shall constitute such member's waiver of notice of such meeting, and waiver of any and all objections to the place of the meeting, the time of the meeting or the manner in which it has been called or convened, except when his (or his authorized representative's) attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

An officer of the Association, or the manager or other person providing notice of the meeting shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the Association, affirming that notices of meetings were posted and mailed or hand delivered in accordance with this Section and the Condominium Act, to each Unit Owner at the appropriate address for such Unit Owner. No other proof of notice of a meeting shall be required.

- 3.5 **Quorum.** A quorum at members' meetings shall be attained by the presence, either in person or by proxy (limited or general), of persons entitled to cast thirty percent (30%) of the votes of members.

3.6 **Voting.**

- (a) **Number of Votes.** The Owners of Units shall be entitled to cast one vote for each Unit owned. The vote of a Unit shall not be divisible.
- (b) **Majority Vote.** The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum has been attained shall be binding upon all Unit Owners for all purposes, except where otherwise provided by law, the Declaration, the Articles or these By-Laws.
- (c) **Voting Member.** If a Unit is owned by one person, that person's right to vote shall be established by the roster of members. If a Unit is owned by more than one person, those persons (including husbands and wives) shall decide among themselves as to who shall cast the vote of the Unit. In the event that those persons cannot so decide, no vote shall be cast. A person casting a vote for a Unit shall be presumed to have the authority to do so unless the President or the Board of Directors is otherwise notified. If a Unit is owned by a corporation, partnership, trust or other entity, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by an appropriate officer for a corporation, by the general partner for a partnership or by a trustee for a trust and filed with the Secretary of the Association. Such person need not be a Unit Owner. Those certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Unit concerned. A certificate designating the person entitled to cast the vote for a Unit may be revoked by any record owner of an undivided interest in the Unit. If a certificate designating the person entitled to cast the vote for a Unit for which such certificate is required is not on file or has been revoked, the vote attributable to such Unit shall not be considered in determining whether a quorum is present nor for any other purpose, and the total number of authorized votes in the Association shall be reduced accordingly until such certificate is filed. The Association shall be entitled to rely on any certificate on file and shall not be required to look outside the document to confirm the validity of any signatures thereon or compliance with any applicable corporate procedures which may or may not have been followed. The Association shall be entitled to assume the authority and enforceability of any certificate on file and the signor of any such certificate shall be deemed to have the authority to bind the respective corporate entity.

- 3.7 **Proxies.** Votes to be cast at meetings of the Association membership may be cast in person or by proxy. Except as may be permitted by the Condominium Act, Unit Owners may not vote by general proxy, but may vote by limited proxies substantially conforming to the limited proxy form approved by the Division.

Limited proxies shall be permitted for votes taken to: waive or reduce reserves; amend the Declaration, Articles or By-Laws; or for any other matter requiring or permitting a vote of Unit Owners. No proxy, limited or general, may be used in the election of Board members, unless permitted by the Condominium Act. General proxies may be used for other matters for which limited proxies are not required and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. A proxy may be made by any person entitled to vote, but shall only be valid for the specific meeting for which originally given and any lawful adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person executing it. A proxy must be in writing, signed by the person authorized to cast the vote for the Unit (as above described), name the person(s) voting by proxy and the person authorized to vote for such person(s) and filed with the Secretary before the appointed time of the meeting, or before the time to which the meeting is adjourned. Each proxy shall contain the date, time and place of the meeting for which it is given and, if a limited proxy, shall set forth the matters on which the proxy holder may vote and the manner in which the vote is to be cast. There shall be no limitation on the number of proxies which may be held by any person including a designee of the Developer. If a proxy expressly provides, any proxy holder may appoint, in writing, a substitute to act in its place.

- 3.8 **Adjourned Meetings.** If any proposed meeting cannot be organized because a quorum has not been attained, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting. Except as required above, proxies given for the adjourned meeting shall be valid for the newly scheduled meeting unless revoked for reasons other than the new date of the meeting.
- 3.9 **Order of Business.** If a quorum has been attained, the order of business at annual members' meetings, and, if applicable, at other members' meetings, shall be:
- (a) Collection of election ballots, if any;
  - (b) Call to order by President;
  - (c) Appointment by the President of a chairman of the meeting (who need not be a member or a director);
  - (d) Proof of notice of the meeting or waiver of notice;
  - (e) Appointment of inspectors of election;

- (f) Tabulation of votes for Directors;
- (g) Reading or waiver of reading of minutes;
- (h) Reports of officers;
- (i) Reports of committees;
- (j) Unfinished business;
- (k) New business;
- (l) Adjournment.

Such order may be waived in whole or in part by direction of the chairman.

- 3.10 **Minutes of Meeting.** The minutes of all meetings of Unit Owners shall be kept in a book available for inspection by Unit Owners or their authorized representatives and Board members at any reasonable time. The Association shall retain these minutes for the duration specified in the Condominium Act.
- 3.11 **Action Without A Meeting.** Anything to the contrary herein notwithstanding, to the extent lawful, any action required or which may be taken at any annual or special meeting of members, may be taken without a meeting, without prior notice and without a vote if a consent in writing, setting forth the action so taken, shall be signed by the members (or persons authorized to cast the vote of any such members as elsewhere herein set forth) having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of members at which all members (or authorized persons) entitled to vote thereon were present and voted. In order to be effective, the action must be evidenced by one or more written consents describing the action taken, dated and signed by approving members having the requisite number of votes and entitled to vote on such action, and delivered to the Secretary of the Association, or other authorized agent of the Association. Written consent shall not be effective to take the corporate action referred to in the consent unless signed by members having the requisite number of votes necessary to authorize the action within sixty (60) days of the date of the earliest dated consent and delivered to the Association as aforesaid. Any written consent may be revoked prior to the date the Association receives the required number of consents to authorize the proposed action. A revocation is not effective unless in writing and until received by the Secretary of the Association, or other authorized agent of the Association. Within ten (10) days after obtaining such authorization by written consent, notice must be given to members who have not consented in writing. The notice shall, fairly summarize the material features of the authorized action. A consent signed in

accordance with the foregoing has the effect of a meeting vote and may be described as such in any document.

4) **Directors.**

4.1 **Membership.** The Association shall be governed by a Board of five (5) directors. Directors may not vote at Board meetings by proxy or by secret ballot, except that officers may be elected by secret ballot.

4.2 **Election of Directors.** Election of Directors shall be held at the annual members' meeting, except as herein provided to the contrary. Unless otherwise provided in the Condominium Act, not less than sixty (60) days prior to a scheduled election, the Association shall mail or deliver to each Unit Owner entitled to vote, a first notice of the date of election. Any Unit Owner or other eligible person desiring to be a candidate for the Board shall give written notice to the Association not less than forty (40) days prior to the scheduled election. Not less than fourteen (14) days before the election, the Association shall mail or deliver a second notice of the election meeting to all Unit Owners entitled to vote therein, together with an agenda and a ballot which shall list all candidates. Upon request of a candidate, the Association shall include an information sheet, no larger than 8 ½ inches by 11 inches, which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing of the ballot, with the costs of mailing or delivery and copying to be borne by the Association. The election of directors shall be by written ballot or voting machine. Elections shall be decided by a plurality of those ballots and votes cast. There shall be no quorum requirement, however at least twenty percent (20%) of the eligible voters must cast a ballot in order to have a valid election of members of the Board. There shall be no cumulative voting.

Notwithstanding the provisions of this Section 4.2, an election and balloting are not required unless more candidates file notices of intent to run than vacancies exist on the Board.

4.3 **Vacancies and Removal.**

- (a) Except as to vacancies resulting from removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors at any Board meeting, provided that all vacancies in directorships to which Directors were appointed by the Developer pursuant to the provisions of paragraph 4.13 hereof shall be filled by the Developer without the necessity of any meeting.
- (b) Any Director elected by the members (other than the Developer) may be removed by concurrence of a majority of the voting interests of the

members at a special meeting of members called for that purpose or by written agreement signed by a majority of all voting interests. The vacancy in the Board of Directors so created shall be filled in accordance with the procedures specified in the Condominium Act.

- (c) Anything to the contrary herein notwithstanding, until a majority of the Directors are elected by members other than the Developer of the Condominium, neither the first Directors of the Association, nor any Directors replacing them, nor any Directors named by the Developer, shall be subject to removal by members other than the Developer. The first Directors and Directors replacing them may be removed and replaced by the Developer without the necessity of any meeting.
- (d) If a vacancy on the Board of Directors results in the inability to obtain a quorum of directors in accordance with these By-Laws, any Owner may apply to the Circuit Court within whose jurisdiction the Condominium lies for the appointment of a receiver to manage the affairs of the Association in accordance with the procedures specified in the Condominium Act.

- 4.4 **Term.** Except as provided herein to the contrary, the term of each Director's service shall extend until the next annual meeting of the members and subsequently until his successor is duly elected and has taken office, or until he is removed in the manner elsewhere provided. Notwithstanding the foregoing, any Director designated by the Developer shall serve at the pleasure of the Developer and may be removed and replaced by the Developer at any time.
- 4.5 **Organizational Meeting.** The organizational meeting of newly-elected or appointed Directors shall be held within ten (10) days of their election or appointment. The directors calling the organizational meeting shall give at least two (2) days advance notice thereof, stating the time and place of the meeting, and shall conspicuously post notice of the meeting for forty-eight (48) continuous hours preceding the meeting.
- 4.6 **Meetings.** Meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone or telegraph, and shall be transmitted at least three (3) days prior to the meeting.

Meetings of the Board of Directors and any Committee thereof at which a quorum of the members of that Committee are present shall be open to all Unit Owners.

The right to attend such meetings includes the right to speak at such meetings with respect to all designated agenda items. The Association may adopt reasonable rules governing the frequency, duration and manner of Unit Owner statements. Adequate notice of such meetings, which notice shall specifically

incorporate an identification of agenda items, shall be posted conspicuously on the Condominium Property at least forty-eight (48) continuous hours preceding the meeting, except in the event of an emergency. Any item not included on the notice of meeting may be taken up on an emergency basis by at least a majority plus one of the members of the Board. Such emergency action shall be noticed and ratified at the next regular meeting of the Board. Notwithstanding the foregoing, written notice of any meeting of the Board at which non-emergency special assessments, or at which amendment to rules regarding unit use will be considered shall be mailed or delivered to all Unit Owners and posted conspicuously on the Condominium property not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen (14) day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the Association. Special meetings of the Directors may be called by the President, and must be called by the President or Secretary at the written request of one third (1/3) of the Directors or where required by the Condominium Act.

- 4.7 **Waiver of Notice.** Any Director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said Director of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting, and a waiver of any and all objections to the place of the meeting, to the time of the meeting or the manner in which it has been called or convened, except when a Director states at the beginning of the meeting, or promptly upon arrival at the meeting, any objection to the transaction of affairs because the meeting is not lawfully called or convened.
- 4.8 **Quorum.** A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is specifically required by the Declaration, the Article or these By-Laws.
- 4.9 **Adjourned Meetings.** If, at any proposed meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required hereunder.
- 4.10 **Written Approval of Minutes.** The written approval of a Director of the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the approval of that Director of the business conducted at the meeting, but such approval shall not allow the applicable Director to be counted as being present for purposes of quorum and shall not be used as a vote for or against action taken at such meeting.

- 4.11 **Presiding Officer.** The presiding officer at the Directors' meetings will be the President (who may, however, designate any other Unit Owner to preside).
- 4.12 **Committees.** The Board may by resolution also create Committees and appoint persons to such Committees and vest in such Committees such powers and responsibilities as the Board shall deem advisable.
- 4.13 **Proviso.** The Developer shall have the right to appoint all of the members of the Board of Directors until Unit Owners other than the Developer own fifteen (15%) percent or more of the Units that will be operated ultimately by the Association. If Unit Owners other than the Developer own fifteen (15%) percent or more of the Units that will be operated ultimately by the Association, the Unit Owners other than the Developer are entitled to elect at least one-third (1/3) of the members of the Board of Directors. Unit Owners other than the Developer are entitled to elect at least a majority of the members of the Board of Directors, upon the first to occur of any of the following events: (a) three years after fifty (50%) percent of the Units that will be operated ultimately by the Association have been conveyed to purchasers; (b) three months after ninety (90%) percent of the Units that will be operated ultimately by the Association have been conveyed to purchasers; (c) when all of 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; (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, (e) when the developer files a petition seeking protection in bankruptcy; (f) when a receiver for the developer is appointed by a circuit court and is not discharged within 30 days after such appointment, unless the court determines within 30 days after appointment of the receiver that transfer of control would be detrimental to the association or its members; or (g) seven (7) years after the date of the recording of the certificate of surveyor and mapper pursuant to s. 718.104(4)(e) or the recording of an instrument that transfers title to a unit in the condominium which is not accompanied by a recorded assignment of developer rights in favor of the grantee of such unit, whichever occurs first. The Developer is entitled (but not obligated) to elect at least one (1) member of the Board of Directors as long as the Developer holds for sale in the ordinary course of business five percent (5%) of the Units that ultimately will be operated by the Association. After 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 Owners except for purposes of reacquiring control of the Association or selecting the majority members of the Board of Directors.

The Developer can turn over control of the Association to Unit Owners other than the Developer prior to such dates in its sole discretion by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of Unit Owners other than the Developer to elect Directors and assume control of the

Association. Provided at least sixty (60) days' notice of Developer's decision to cause its appointees to resign is given to Unit Owners, neither the Developer, nor such appointees, shall be liable in any manner in connection with such resignations even if the Unit Owner other than the Developer refuse or fail to assume control.

Within seventy-five (75) days after the Unit Owners other than the Developer are entitled to elect a member or members of the Board of Directors, or sooner if the Developer has elected to accelerate such event as aforesaid, the Association shall give not less than sixty (60) days' notice of a meeting of the Unit Owners to elect such member or members of the Board of Directors. The meeting may be called and the notice given by the Unit Owners if the Association fails to do so.

At the time Unit Owners other than the Developer elect a majority of the members of the Board of Directors of the Association the Developer shall relinquish control of the Association, and the unit owners shall accept control. Simultaneously, or for the purposes of paragraph (c) not more than ninety (90) days thereafter, the Developer shall deliver to the association, at the developer's expense, all property of the unit owners and of the association which is held or controlled by the Developer, including, but not limited to, the following items, if applicable:

- (a)
  - 1. The original or a photocopy of the recorded declaration of condominium and all amendments thereto. If a photocopy is provided, it must be certified by affidavit of the developer or an officer or agent of the developer as being a complete copy of the actual recorded declaration;
  - 2. A certified copy of the articles of incorporation of the association or, if the association was created prior to the effective date of this act and it is not incorporated, copies of the documents creating the association;
  - 3. A copy of the bylaws;
  - 4. The minute books, including all minutes, and other books and records of the association, if any;
  - 5. Any house rules and regulations that have been promulgated.
- (b) Resignations of officers and members of the board of administration who are required to resign because the developer is required to relinquish control of the association.
- (c) The financial records, including financial statements of the association, and source documents from the incorporation of the association through the date of turnover. The records must be audited for the period from the incorporation of the association or from the period covered by the last audit, if an audit has been performed for each fiscal year since incorporation, by an

independent certified public accountant. All financial statements must be prepared in accordance with generally accepted accounting principles and must be audited in accordance with generally accepted auditing standards, as prescribed by the Florida Board of Accountancy, pursuant to chapter 473. The accountant performing the audit shall examine to the extent necessary supporting documents and records, including the cash disbursements and related paid invoices to determine if expenditures were for association purposes and the billings, cash receipts, and related records to determine that the developer was charged and paid the proper amounts of assessments.

- (d) Association funds or control thereof.
- (e) All tangible personal property that is property of the association, which is represented by the developer to be part of the common elements or which is ostensibly part of the common elements, and an inventory of that property.
- (f) A copy of the plans and specifications utilized in the construction or remodeling of improvements and the supplying of equipment to the condominium and in the construction and installation of all mechanical components serving the improvements and the site with a certificate in affidavit form of the developer or the developer's agent or an architect or engineer authorized to practice in this state that such plans and specifications represent, to the best of his or her knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the condominium property and for the construction and installation of the mechanical components serving the improvements. If the condominium property has been declared a condominium more than 3 years after the completion of construction or remodeling of the improvements, the requirements of this paragraph do not apply.
- (g) A list of the names and addresses of all contractors, subcontractors, and suppliers utilized in the construction or remodeling of the improvements and in the landscaping of the condominium or association property which the developer had knowledge of at any time in the development of the condominium.
- (h) Insurance policies.
- (i) Copies of any certificates of occupancy that may have been issued for the condominium property.

- (j) Any other permits applicable to the condominium property which have been issued by governmental bodies and are in force or were issued within 1 year prior to the date the unit owners other than the developer took control of the association.
- (k) All written warranties of the contractor, subcontractors, suppliers, and manufacturers, if any, that are still effective.
- (l) A roster of unit owners and their addresses and telephone numbers, if known, as shown on the developer's records.
- (m) Leases of the common elements and other leases to which the association is a party.
- (n) Employment contracts or service contracts in which the association is one of the contracting parties or service contracts in which the association or the unit owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service.
- (o) All other contracts to which the association is a party.
- (p) A report included in the official records, under seal of an architect or engineer authorized to practice in this state, attesting to required maintenance, useful life, and replacement costs of the following applicable common elements comprising a turnover inspection report:
  - 1. Roof.
  - 2. Structure.
  - 3. Fireproofing and fire protection systems.
  - 4. Elevators.
  - 5. Heating and cooling systems.
  - 6. Plumbing.
  - 7. Electrical systems.
  - 8. Swimming pool or spa and equipment.
  - 9. Seawalls.
  - 10. Pavement and parking areas.
  - 11. Drainage systems.
  - 12. Painting.
  - 13. Irrigation systems.
- (q) A copy of the certificate of a surveyor and mapper recorded pursuant to s. 718.104(4)(e) or the recorded instrument that transfers title to a unit in the condominium which is not

accompanied by a recorded assignment of developer rights in favor of the grantee of such unit, whichever occurred first.

5) **Authority of the Board.**

5.1 **Powers and Duties.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these By-Laws may not be delegated to the Board of Directors by the Unit Owners. Such powers and duties of the Board of Directors shall include, without limitation (except as limited elsewhere herein), the following:

- (a) Operating and maintaining all Common Elements and the Association Property.
- (b) Determining the expenses required for the operation of the Association and the Condominium.
- (c) Employing and dismissing the personnel necessary for the maintenance and operation of the Common Elements and the Association Property.
- (d) Adopting and amending rules and regulations concerning the details of the operation and use of the Condominium and Association Property.
- (e) Maintaining bank accounts on behalf of the Association and designating the signatures required therefor.
- (f) Purchasing, leasing or otherwise acquiring title to, or an interest in, property in the name of the Association, or its designee, for the use and benefit of its members. The power to acquire personal property shall be exercised by the Board and the power to acquire real property shall be exercised as described herein and in the Declaration.
- (g) Purchasing, leasing or otherwise acquiring Units or other property, including, without limitation, Units at foreclosure or other judicial sales, all in the name of the Association, or its designee.
- (h) Selling, leasing, mortgaging or otherwise dealing with Units acquired, and subleasing Units leased, by the Association, or its designee.
- (i) Organizing corporations and appointing persons to act as designees of the Association in acquiring title to or leasing Units or other property.

- (j) Obtaining and reviewing insurance for the Condominium and Association Property.
- (k) Making repairs, additions and improvements to, or alterations of, Condominium Property and Association Property, and repairs to and restoration of Condominium and Association Property, in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise.
- (l) Enforcing obligations of the Unit Owners, allocating profits and expenses and taking such other actions as shall be deemed necessary and proper for the sound management of the Condominium.
- (m) Levying fines against appropriate Unit Owners for violations of the rules and regulations established by the Association to govern the conduct of such Unit Owners. No fine shall be levied except after first providing at least 14 days' written notice and opportunity for a hearing to the affected Unit Owner and, if applicable, his tenant, licensee or invitee. The hearing must be held before a committee of other unit owners who are neither board members nor persons residing in a board member's household. If the committee does not agree, the fine or suspension may not be imposed. No fine shall exceed the highest amount permitted by the Condominium Act from time to time.
- (n) Borrowing money on behalf of the Association or the Condominium when required in connection with the operation, care, upkeep and maintenance of Common Elements or the acquisition of real property, and granting mortgages on and/or security interests in Association owned property.
- (o) Contracting for the management and maintenance of the Condominium and Association Property and authorizing a management agent (who may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair, and replacement of the Common Elements and Association Property with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the Declaration, the Articles, these By-Laws and the Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.

- (p) At its discretion authorizing Unit Owners or other persons to use portions of the Common Elements or Association Property for private parties and gatherings and imposing reasonable charges for such private use.
- (q) Exercising (i) all powers specifically set forth in the Declaration, the Articles, these By-Laws and in the Act, (ii) all powers incidental thereto, and (iii) all other powers of a Florida corporation not-for-profit.
- (r) Contracting with and creating or joining in the creation of special taxing districts, joint councils and the like.
- (s) Responding to complaints of Unit Owners in accordance with all requirements of applicable law.

6) **Officers.**

- 6.1 **Executive Officers.** The executive officers of the Association shall be a President, a Vice President, a Treasurer and a Secretary (none of whom need be Directors), all of whom shall be elected by the Board of Directors and who may be peremptorily removed at any meeting by concurrence of a majority of all of the Directors. A person may hold more than one office, except that the President may not also be the Secretary. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board of Directors from time to time shall elect such other officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association. Officers, other than designees of the Developer, must be Unit Owners (or authorized representatives of corporate/partnership/trust Unit Owners).
- 6.2 **President.** The President shall be the chief executive officer of the Association. He shall have all of the powers and duties that are usually vested in the office of president of an association.
- 6.3 **Vice-President.** The Vice-President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice president of an Association and as may be required by the Directors or the President.
- 6.4 **Secretary.** The Secretary shall keep the minutes of all proceedings of the Directors and the members. The Secretary shall attend to the giving of all notices to the members and Directors and other notices required by law. The Secretary shall have custody of the seal of the Association and shall affix to instruments requiring the seal when duly signed. The Secretary shall keep the records of the Association, except those of the Treasurer, and perform all other duties incident to

the office of the secretary of an association and as may be required by the Directors or the President.

- 6.5 **Treasurer.** The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. The Treasurer shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. The Treasurer shall submit a treasurer's report to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of treasurer and as may be required by the Directors or the President. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board of Directors.
- 6.6 **Developer Appointees.** No officer appointed by the Developer may be removed except as provided in Section 4.13 hereof and by law.
- 7) **Compensation.** Neither Directors nor officers shall receive compensation for their services as such, but this provision shall not preclude the Board of Directors from employing a Director or officer as an employee of the Association, nor preclude contracting with a Director or officer for the provision of a service to the Association.
- 8) **Resignations.** Any Director or officer may resign his post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Units owned by any Director or officer (other than appointees of the Developer or officers who are not required to be Unit Owners) shall constitute a written resignation of such Director or officer.
- 9) **Fiscal Management.** The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:
- 9.1 **Fiscal Year.** The fiscal year of the Association shall be the calendar year unless otherwise designated in the discretion of the Board of Directors.
- 9.2 **Budget.**
- (a) **Adoption by Board; Items.** The Board of Directors shall from time to time, and at least annually, prepare a budget for the Association (which shall detail all accounts and items of expense and contain at least all items required by the Condominium Act), determine the amount of Assessments payable by the Unit Owners to meet the expenses of the Association and allocate and assess such expenses against the Unit Owners in accordance with the provisions of the Declaration. In addition, if the Association

maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements, the budget or a schedule attached thereto shall show amounts budgeted therefor. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance (to the extent required by law). Reserves shall not be required if the members of the Association have, by a majority vote at a duly called meeting of members, determined for a specific fiscal year to provide no reserves or reserves less adequate than required hereby. Prior to transfer of control of the Association to Unit Owners other than the Developer, the Developer may vote to waive reserves for the first two (2) fiscal years of operation of the Association, after which time, reserves may only be waived or reduced upon the vote of a majority of non-Developer voting interests present at a duly called meeting of the Association. If a meeting of Unit Owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves, as included in the budget, shall go into effect.

The adoption of a budget for the Association shall comply with the requirements hereinafter set forth:

- (i) **Notice of Meeting.** A copy of the proposed budget of Common Expenses shall be mailed or hand delivered to each Unit Owner not less than fourteen (14) days prior to the meeting of the Board of Directors at which the budget will be considered, together with a notice of that meeting indicating the time and place of such meeting.
- (ii) **Special Membership Meeting.** If a budget is adopted by the Board of Directors which requires Assessments against such Unit Owners in any year exceeding one hundred fifteen percent (115%) of such Assessments for the preceding year, as hereinafter defined, upon written application of ten percent (10%) of the Unit Owners, a special meeting of the Unit Owners shall be held within thirty (30) days of delivery of such application to the Board of Directors. Each Unit Owner shall be given at least ten (10) days' notice of said meeting. At the special meeting, Unit Owners shall consider and adopt a budget. The adoption of said budget shall require a vote of Owners of not less than 50% of all the Units (including Units owned by the Developer). If a meeting of the Unit Owners has been called as aforesaid and a quorum is not obtained or a substitute budget has not been adopted by the Unit Owners, the budget adopted by the Board of Directors shall go into effect as scheduled.

(iii) **Determination of Budget Amount.** In determining whether a budget requires Assessments against Unit Owners in any year exceeding one hundred fifteen percent (115%) of Assessments for the preceding year, there shall be excluded in the computations any authorized provisions for reasonable reserves made by the Board of Directors in respect of repair or replacement of the Condominium Property or in respect of anticipated expenses of the Association which are not anticipated to be incurred on a regular or annual basis, and there shall be excluded further from such computation Assessments for improvements to the Condominium Property.

(b) **Adoption by Membership.** In the event that the Board of Directors shall be unable to adopt a budget for a fiscal year in accordance with the requirements of Section 9.2(a) above, the Board of Directors may call a special meeting of Unit Owners for the purpose of considering and adopting such budget, which meeting shall be called and held in the manner provided for such special meetings in said subsection, or propose a budget in writing to the members, and if such budget is adopted by the members, upon ratification by a majority of the Board of Directors, it shall become the budget for such year.

9.3 **Assessments.** Assessments against Unit Owners for their share of the items of the budget shall be made for the applicable fiscal year annually at least twenty (20) days preceding the year for which the Assessments are made. Such Assessments shall be due in equal installments, payable in advance on the first day of each month (or each quarter at the election of the Board) of the year for which the Assessments are made. If annual Assessments are not made as required, Assessments shall be presumed to have been made in the amount of the last prior Assessments, and monthly (or quarterly) installments on such Assessments shall be due upon each installment payment date until changed by amended Assessments. In the event the annual Assessments prove to be insufficient, the budget and Assessments may be amended at any time by the Board of Directors, subject to the provisions of Section 9.2 hereof, if applicable. Unpaid Assessments for the remaining portion of the fiscal year for which amended Assessments are made shall be payable in as many equal installments as there are full months (or quarters) of the fiscal year left as of the date of such amended Assessments, each such monthly (or quarterly) installment to be paid on the first day of the month (or quarter), commencing the first day of the next ensuing month (or quarter). If only a partial month (or quarter) remains, the amended Assessments shall be paid with the next regular installment in the following year, unless otherwise directed by the Board in its resolution.

9.4 **Special Assessments.** Special Assessments may be levied as provided in the Declaration and shall be paid in such manner as the Board of Directors of the

Association may require in the notice of such Assessments. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose or purposes set forth in the notice of adoption of same. However, upon completion of such specific purpose or purposes, any excess funds will be considered Common Surplus, and may, at the discretion of the Board, either be returned to the Unit Owners or applied as a credit towards future assessments.

- 9.5 **Depository.** The depository of the Association shall be such bank or banks in the State of Florida as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from those accounts shall be made only by checks signed by such person or persons as are authorized by the Directors.
- 9.6 **Late Charges and Acceleration of Installments Upon Default.** Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the highest lawful rate from the date due until paid. In addition to the above stated interest, the Association may charge an administrative late fee in an amount not to exceed the highest amount provided for in the Condominium Act (as it may be amended from time to time) on Assessments and installments thereof not paid when due. As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid and after a claim of lien is filed and forty-five (45) days' prior written notice has been provided to the applicable Owner, the Association may declare the Assessment installments for the remainder of the budget year to be accelerated and such amount shall thereupon be immediately due and payable.
- 9.7 **Fidelity Bonds.** The association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum of funds that will be in the custody of the association or its management agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of the association" includes, but it is not limited to, those individuals authorized to sign checks and the president, secretary, and treasurer of the association. The association shall bear the cost of bonding.
- 9.8 **Accounting Records and Reports.** The Association shall maintain accounting records in the State, according to accounting practices normally used by similar associations. The records shall be open to inspection by Unit Owners or their authorized representatives at reasonable times and written summaries of them shall be supplied at least annually. The records shall include, but not be limited to: (a) a record of all receipts and expenditures, and (b) an account for each Unit designating the name and current mailing address of the Unit Owner, the amount of Assessments, the dates and amounts in which the Assessments come due, the amount paid upon the account and the dates so paid, and the balance due. Written

summaries of the records described in clause (a) above, in the form and manner specified below, shall be supplied to each Unit Owner annually.

Within ninety (90) days following the end of the fiscal year, the Board shall mail, or furnish by personal delivery, to each Unit Owner either (a) a complete financial report of actual receipts and expenditures for the previous fiscal year; or (b) a complete set of financial statements for the preceding fiscal year prepared in accordance with generally accepted accounting principles, unless the Division adopts alternate standards, in which case such standards shall be followed; or (c) such other financial report as may be required by Section 718.111(13) of the Florida Statutes for the previous fiscal year. The report shall show the amount of receipts by accounts and receipt classifications and shall show the amount of expenses by accounts and expense classifications, including, if applicable, but not limited to, the following:

- (a) Costs for security;
- (b) Professional and management fees and expenses;
- (c) Taxes;
- (d) Costs for recreation facilities;
- (e) Expenses for refuse collection and utility services;
- (f) Expenses for lawn care;
- (g) Costs for building maintenance and repair;
- (h) Insurance costs;
- (i) Administrative and salary expenses; and
- (j) Reserves for capital expenditures, deferred maintenance and any other category for which the Association maintains a reserve account or accounts.

9.9 **Application of Payment.** All payments made by a Unit Owner shall be applied as provided in these By-Laws and in the Declaration or as otherwise determined by the Board.

9.10 **Notice of Meetings.** Notice of any meeting where Assessments against Unit Owners are to be considered for any reason shall specifically contain a statement that Assessments will be considered and the nature of any such Assessments.

- 10) **Roster of Unit Owners.** Each Unit Owner shall file with the Association a copy of the deed or other document showing his ownership. The Association shall maintain such information. The Association may rely upon the accuracy of such information for all purposes until notified in writing of changes therein as provided above. Only Unit Owners of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other Owners shall produce adequate evidence, as provided above of their interest and shall waive in writing notice of such meeting.
- 11) **Parliamentary Rules.** Except when specifically or impliedly waived by the chairman of a meeting (either of members or directors), Robert's Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Condominium Act, the Declaration, the Articles or these By-Laws; provided, however, that a strict or technical reading of said Robert's Rules shall not be made so as to frustrate the will of the persons properly participating in said meeting.
- 12) **Amendments.** Except as may be provided in the Declaration to the contrary, these By-Laws may be amended in the following manner:
- 12.1 **Notice.** Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.
- 12.2 **Adoption.** A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than one-third (1/3) of the members of the Association. Members (but not Board or committee members) not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. The approval must be by not less than a majority of the votes of all members of the Association represented at a meeting at which a quorum has been attained.
- 12.3 **Proviso.** No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer or mortgagees of Units without the consent of said Developer and mortgagees in each instance. No amendment shall be made that is in conflict with the Articles or Declaration. No amendment to this Section shall be valid.
- 12.4 **Execution and Recording.** A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of these By-Laws, which certificate shall be executed by the President or Vice-President and attested by the Secretary or Assistant Secretary of the Association with the formalities of a deed, or by the Developer alone if the amendment has been adopted consistent with the provisions of the Declaration allowing such action by the Developer. The amendment shall be effective when the certificate

and a copy of the amendment is recorded in the Public Records of this County with an identification on the first page of the amendment of the Records Book and Page of said Public Records where the Declaration is recorded.

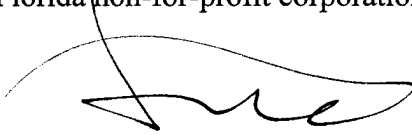
- 13) **Official Records.** The official records of the Association shall be maintained in the Association's office or such other location within 45 miles of the condominium property or within the county in which the condominium property is located. The records of the association shall be made available to a unit owner within 5 working days after receipt of a written request by the board or its designee. The official records of the Association shall be open to inspection by any Association member or the authorized representative of such member at all reasonable times in accordance with the requirements of the Condominium Act. The right to inspect the records includes the right to make or obtain copies, at a reasonable expense, if any, of the Association member. The Association may adopt reasonable rules regarding the time, location, notice and manner of record inspections and copying.
- 14) **Disputes.** Without limiting any other remedies which may be available in law or equity, those disputes which are governed by mandatory non-binding arbitration proceedings as specified in Section 718.1255, Florida Statutes shall be governed by the procedures set forth therein.
- 15) **Construction.** Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.
- 16) **Captions.** The captions herein are inserted only as a matter of convenience and for reference and in no way define or limit the scope of these By-Laws or the intent of any provision hereof.
- 17) **Certificate of Compliance.** A certificate of compliance from a licensed electrical contractor or electrician may be accepted by the Board of Directors as evidence of compliance of the Units to applicable fire and life safety code.

*(Signatures on page to follow)*

The foregoing was adopted and approved as the By-Laws of Bay Harbor Club Association, Inc., a not for profit corporation incorporated under the laws of the State of Florida, as of the 11<sup>th</sup> day of July, 2013.

BAY HARBOR CLUB ASSOCIATION, INC.,  
a Florida non-for-profit corporation

By:

  
\_\_\_\_\_  
Jorge Savloff, President

**DECLARATION OF CONDOMINIUM  
OF BAY HARBOR CLUB CONDOMINIUM**

**EXHIBIT 6**

**Rules and Regulations  
of Bay Harbor Club Association, Inc.**

# **RULES AND REGULATIONS**

## **OF**

### **BAY HARBOR CLUB CONDOMINIUM**

The Rules and Regulations hereinafter enumerated as to the Condominium Property, the common elements, the limited common elements, the units and the Condominium (the "Condominium") shall apply to and be binding upon all unit owners. The unit owners shall at all times obey these Rules and Regulations and shall use their best efforts to see that they are faithfully observed by their families, guests, invitees, servants, lessees, persons for whom they are responsible and persons over whom they exercise control and supervision. Any waivers, consents or approvals given under these Rules and Regulations by the Board of Directors shall be revocable at any time and shall not be considered as a waiver, consent or approval of identical or similar situations unless such waiver, consent or approval is specifically set forth, in writing, by the Board of Directors. **THE RULES AND REGULATIONS ARE AS FOLLOWS:**

1. **RULES AND REGULATIONS:**

- a. Violations should be reported, in writing, to the Board of Directors of the Association.
- b. Violations will be called to the attention of the violating unit owner or lessee by the Board of Directors.
- c. Disagreements concerning violations will be presented to and be judged by the Board of Directors who will take appropriate action.
- d. Unit owners are responsible for compliance by their guests or lessees with these Rules and Regulations.

2. **NOISE AND RENOVATION:** Radios, televisions and other instruments which may create noise should be turned down to a minimum volume between the hours of 9:00 P.M. and 9:00 A.M. All other unnecessary noises, such as bidding good night to departing guests and slamming doors, between these hours should be avoided. All chairs, tables, or other moveable objects must have appropriate padding underneath, so as to minimize any and all noises from sliding, scraping, or otherwise moving in such a way which causes audible noise to any other unit.

Unless expressly permitted in writing by the Association, no floor covering shall be installed in the units, other than any carpeting or other floor covering installed by the Developer. In any event, such unit owner shall the duty of causing there to be placed underneath such floor covering, so as to be between any such floor covering and the

concrete slab or wood sub-floor, such soundproofing material as may be required by the applicable building codes as amended from time to time, so that the flooring shall be adequately sound-proof. All floor work must be permitted and inspected by the Town of Bay Harbor Islands or the appropriate code enforcement body, as approved by the Association. All flooring, insulation, underlayment, and permits must be reasonably approved in advance of any commencement of work by the Association. All owners acknowledge and agree that the Association may require immediate removal of any flooring or renovations not completed by the Developer, or in compliance with this paragraph or City Building Codes, which are not approved in writing by the Association in advance of any commencement of work. Failure to comply with a removal request will allow the Association to levy a fine in the maximum amount of \$100.00 per day from official receipt of the notice to remove.

3. **OBSTRUCTIONS:** The parking areas, all sidewalks, entrances, driveways, passages, patios, balconies, courts, vestibules, stairways, corridors and halls must be kept open and shall not be obstructed in any manner. No sign, notice or advertisement shall be inscribed or exposed on or at any window or any part of the Condominium, nor shall anything be projected out of any window or door in the Condominium. No radio or television aerial or antenna shall be attached to, or hung from, the exterior of the Condominium or the roofs thereon, except for installations constructed thereon by the Association, Developer and/or by agents of the Association. All satellite dishes, if needed, must not be affixed to any common element or limited common element, but rather should be anchored to a moveable solid object owned by the unit owner, such as a flower pot filled with concrete, and may only be placed within the unit or on a limited common element appurtenant to the unit. It will be the sole discretion of the Association to determine the appropriateness of any satellite dish, and all owners will recognize that some units may not be designed in such a way as to allow satellite reception.
4. **CHILDREN:** Children are not to play in the parking areas, in the elevators if any such exists, in the public walkways or on the stairways. Reasonable supervision must be exercised when children are playing on the grounds.
5. **DESTRUCTION OF PROPERTY:** Neither unit owners, nor their family members, lessees, contractors, invitees, nor guests shall mark, mar, damage, destroy, deface or engrave any part of the Condominium. Unit owners shall be financially responsible for any such damage.
6. **EXTERIOR APPEARANCE:** The exterior of the Condominium all areas appurtenant to the Condominium shall not be painted, decorated or modified by any unit owner in any manner without the prior consent of the Association, which consent may be withheld on purely aesthetic grounds within the sole discretion of the Association. No awnings, window guards, light reflective materials, hurricane or storm shutters, ventilators, fans or air conditioning devices shall be used in or about the Condominium, except as shall have been approved by the Association and shall follow applicable building codes, which Association approval may be withheld on purely aesthetic grounds within the sole

discretion of the Association. The Association may not refuse to approve the installation or replacement of hurricane shutters conforming to the specifications adopted by the board. No windows may be tinted without the prior consent of the Association and installation of drapes or curtains visible from the exterior of the Condominium shall have white or off-white, black out type liners used, which liners must be approved by the Association. No television or other outdoor antenna system or facility shall be erected or maintained within the boundaries of the Condominium, except for installations constructed therein by the Developer and/or by agents of the Developer, or otherwise approved by the Association.

7. **SIGNS**: There shall be no "For Sale" or "For Rent/Lease" signs exhibited, displayed or visible from the interior or exterior of the Condominium, except for signs displayed by the Developer and/or by agents engaged by the Developer.
8. **CLEANLINESS**: All garbage and refuse from the Condominium shall be deposited with care in garbage containers intended for such purpose at such times and in such manner as the Association shall direct. All disposals shall be used in accordance with instructions given by the Association.
9. **WINDOWS, BALCONIES AND TERRACES (WHERE SUCH EXIST)**: Unit owners shall remove all loose objects or movable objects from the balconies and terrace, if any such exist, during the hurricane season. Unit owners shall not throw cigars, cigarettes or any other object from balconies, doors, windows or terraces. No cooking shall be permitted on any balcony or terrace. Unit owners shall not allow anything to be thrown or to fall from balconies, doors, windows or terraces. No sweeping or other substances shall be permitted to escape to the exterior of the Condominium from the balconies, doors, windows or terraces. No balconies or terraces may be enclosed except by the Developer. Statements regarding balconies and terraces are inapplicable if balconies or terraces do not exist, and should be disregarded.
10. **INGRESS AND EGRESS**: Garbage cans, laundry, dry cleaning, supplies or other articles shall not be placed in the halls, on walkways or on staircase landings. No unit owner or lessee shall allow entrance doors or remain open for any purpose other than for immediate ingress and egress.
11. **STORAGE AREAS**: Nothing shall be placed in the storage areas, if any, which would create a fire hazard.
12. **BICYCLES**: Bicycles must be placed or stored in the designated areas, if any.
13. **ATTIRE**: No bare feet are allowed in the parking areas or in the stairways.
14. **PLUMBING**: Common water closets and other common plumbing shall not be used for any purposes other than those for which they are constructed, and no sweepings, rubbish, rags, sanitary napkins or other foreign substances shall be thrown therein. Grease and

other foreign substances shall not be poured down drains. The cost of any damage resulting from misuse of same shall be borne by the unit owner causing the damage.

15. **TRASH:** All refuse, waste, bottles, cans and garbage, etc., shall be securely wrapped in plastic garbage bags and place in the appropriate collection containers. Trash collection containers may be used only between 7:00 A.M. and 11:00 P.M.
16. **ROOFS:** Unit owners (other than the Developer and/or agents of the Developer), their lessees, their family members and guests are not permitted on the portions of the roofs which are a part of the common elements of the Condominium for any purpose whatsoever; provided, however, that nothing contained herein shall prevent a unit owner from entering upon and utilizing any portion of the roofs which constitute a portion of such unit owner's unit.
17. **SOLICITATION:** There shall be no solicitation by any person anywhere upon the Condominium Property for any cause, charity, or for any other purpose whatsoever, unless specifically authorized by the Board of Directors.
18. **EMPLOYEES:** Except as may otherwise be permitted by the Association, employees of the Association may not be sent out of the buildings by any unit owner, except in the unit owner's capacity as an officer or director of the Association, at any time, for any purpose. No unit owner shall direct, supervise or in any manner attempt to assert any control over the employees of the Association.
19. **FIRE DOORS:** Unit owners, lessees, and their respective family members and guests shall not use the fire doors for ingress or egress, except in emergency situations.
20. **HURRICANE PREPARATIONS:** Each unit owner or lessee who plans to be absent from the Condominium during the hurricane season must prepare the unit prior to departure by designating a responsible firm or individual to care for the unit during the unit owner's or lessee's absence in the event that the unit should suffer hurricane damage. The designated firm or individual shall be registered with the Board of Directors and such firm or individual shall contact the Board of Directors for permission to install or to remove hurricane shutters. If permission is given by the Board of Directors for the installation of storm shutters, then the approval shall be conditioned upon the Board of Directors also approving the quality of the storm shutters and the aesthetic appearance of the storm shutters. All storm shutters which may be approved by the Board of Directors shall be white in color, and shall be an accordion type storm shutter. Storm shutters shall only be installed during hurricane "watch" and hurricane "warning" situations.

The Board of Directors may, subject to the provisions of Section 718.3026 Florida Statutes, and the approval of a majority of voting interests of the Condominium, install hurricane shutters and may maintain, repair, or replace such approved hurricane shutters, whether on or within common elements, limited common elements, units or Association property. However, where laminated glass or window film architecturally designed to

function as hurricane protection which complies with the applicable building code has been installed, the Board of Directors may not install hurricane shutters. The Board of Directors may operate shutters installed pursuant to this Paragraph No. 20 without permission of the unit owners only where such operation is necessary to preserve and protect the Condominium Property and Association property.

The expense of installation, replacement, operation, repair and maintenance of hurricane shutters by the Board of Directors shall constitute a common expense as defined herein and shall be collected as provided in the Declaration. Notwithstanding the foregoing, a unit owner who has previously installed hurricane shutters in accordance with this paragraph 20 of laminated glass architecturally designed to function as a hurricane protection which complies with the applicable building code shall receive a credit equal to the pro rata portion of the assessed installation cost assigned to each unit. However, such unit owner shall remain responsible for the pro rata share of expenses for hurricane shutters installed on common elements and association property by the Board of Directors, and shall remain responsible for a pro rata share of the expense of the replacement, operation, repair, and maintenance of such shutters.

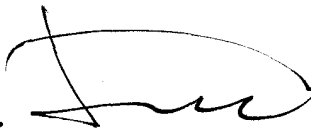
21. **GUESTS:** Unit owners and lessees shall notify the Board of Directors, upon at least ten (10) days prior written notice, of the arrival and departure dates of guests who have permission to occupy the unit in the absence of the unit owner and the lessee. All guests must check in at the Association office, upon arrival, in order that service may be extended to them in the way of telephone calls coming into the Association office, incoming mail or any emergency which might arise. The Association may, in its reasonable discretion, limit the number of guests who may reside in a unit at any one time.
22. **PEST CONTROL:** All unit owners and lessees shall permit employees of pest control companies employed by the Association, if any, to enter into the units, at regularly scheduled times, to perform pest control services.
23. **PETS:** All pets of unit owners must be harbored and maintained inside the owner's unit, except for second floor and above unit owners with balconies, if any such units have balconies, may allow their pets to occupy their respective balconies as long as there is no unreasonable disturbance of any other unit owner. Absolutely not pets, owned or stray, shall be fed or otherwise maintained outside of a unit, such as on a balcony, patio, terrace or on any part of a common or limited common element. No unit owner or any other person is allowed to feed or otherwise maintain stray pets on any condominium premises, whether common elements or limited common elements. A stray pet is any pet which is not specifically owned and harbored by a unit owner. No pet or animal shall be maintained or harbored within a unit that would create a nuisance or a danger to any other unit owner or lessee. The Association Board may consider a pit bull or other breed dangerous, or a particular pet dangerous due to specific circumstances, and the Association Board may require permanent removal from the Condominium Property, or other necessary actions to reasonably allow quiet enjoyment for all unit owners. A

determination by the Board of Directors that a pet or animal maintained or harbored within a unit is dangerous, creates a nuisance or is exotic shall be binding and conclusive on all parties. A "nuisance" includes but is not limited to loud noises, odors, and defecation or urination on common elements. All pet owners are responsible for any odors, and defecation or urination by their pet on Condominium Property, and the Association may charge respective unit owners to remedy any damage or odors, and defecation or urination caused by their pets. All pets must be leashed when on common elements, whether the pet is owned by a unit owner, tenant, invitee or other person. All pets must have a veterinary signed information statement, have received all legally required vaccinations and be approved in writing by the Association prior to being harbored within a unit. No pet with an infectious condition or disease is allowed to leave its owner's unit if it may reasonably come into contact with another pet which could reasonably contract the infectious condition or disease. Owners with sick pets must notify the Association and neighboring units of the condition, and alert other pet owners when the pet must be taken outside the unit for travel to the veterinarian or other necessary purpose.

24. **COOPERATION WITH BOARD OF DIRECTORS:** All unit owners and lessees shall cooperate fully with the Board of Directors in effecting and coordinated move-in and move-out schedule including, but not limited to, use of elevators for moving of furniture and furnishings.
25. **TENANTS:** All tenants renting from unit owners must be approved in writing by the Association. Tenants will be approved by reasonable legal standards, including prior landlord's references, noise, criminal history, safety, personal and professional references, and number and size of pets.

The foregoing Rules and Regulations are designed to make living for all unit owners pleasant and comfortable. Therefore, compliance with the foregoing Rules and Regulations is mandatory. The restrictions imposed are for the mutual benefit of all.

**BAY HARBOR CLUB ASSOCIATION, INC.**

By:   
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Jorge Savloff, President