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FOR BELLA CAPRI, A CONDOMINIUM**

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BELLA CAPRI, A CONDOMINIUM  
FILING CHECKLIST

|   | Executed<br>Copy<br>Enclosed | Copy of<br>Proposed<br>Instrument<br>Enclosed | N/A<br>No Such<br>Instrument<br>To Be Used | Will Be<br>Submitted<br>As An<br>Amendment |
|---|------------------------------|---|--|--|
| Prospectus Text   |                              | X   |  |  |
| Declaration of Condominium  |                              | X   |  |  |
| Articles of Incorporation   |                              | X   |  |  |
| Certificate of Incorporation  |                              |   |  | X  |
| Bylaws  |                              | X   |  |  |
| Estimated Operating Budget  |                              | X   |  |  |
| Form of Agreement for Sale<br>or Lease  |                              | X   |  |  |
| Receipt for Condominium Documents   |                              | X   |  |  |
| Escrow Agreement  |                              | X   |  |  |
| Plot Plan   |                              | X   |  |  |
| Floor Plan  |                              | X   |  |  |
| Survey  |                              | X   |  |  |
| Management and Maintenance Contracts  |                              | X   |  |  |
| Ground Lease  |                              |   | X  |  |
| Form of Unit Lease if a Leasehold   |                              |   | X  |  |
| Lease or Agreement and Other<br>Documents For Use of Recreation<br>Facilities or Property |                              |   | X  |  |

|  | Executed<br>Copy<br>Enclosed | Copy of<br>Proposed<br>Instrument<br>Enclosed | N/A<br>No Such<br>Instrument<br>To Be Used | Will Be<br>Submitted<br>As An<br>Amendment |
|--|------------------------------|---|--|--|
| Declaration of Servitude                                     |                              |   | X  |  |
| Conversion Inspection Report                                 |                              |   | X  |  |
| Termite Inspection Report                                    |                              |   | X  |  |
| Covenants and Restrictions                                   |                              | X   |  |  |
| Rules and Regulations  |                              | X   |  |  |
| Sales Brochure   |                              |   |  | X  |
| Questions and Answer Sheet                                   |                              | X   |  |  |
| Evidence of Developer's Ownership<br>or Contractual Interest | X                            |   |  |  |

Developer/Condominium Filing Statement

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
DIVISION OF FLORIDA LAND SALES, CONDOMINIUMS, AND MOBILE HOMES  
1940 NORTH MONROE STREET - NORTHWOOD CENTRE  
TALLAHASSEE, FLORIDA 32399-1033  
TELEPHONE (904) 487-9832

The filing fee of \$20 for each residential unit to be sold by the developer as provided by s. 718.502(3), F.S., must accompany this statement. If the offering is a phase condominium pursuant to s. 718.403, F.S., the fee shall be paid as each phase is filed with the Division. A developer may submit more than one phase with this initial filing statement by identifying those additional phases after the name of the condominium.

NOTE: If the Declaration of Condominium is not yet recorded, s. 718.104(2), F.S., requires that the developer submit the recording information to the Division within 120 days of its recordation.

FOR STAFF USE ONLY

|                        |                             |                    |
|------------------------|-----------------------------|--------------------|
| Prospectus _____       | Plot Plan _____             | I.D. No. _____     |
| Declaration _____      | Floor Plan _____            | Fee Rec'd \$ _____ |
| Articles _____         | Budget _____                | Form Review _____  |
| Bylaws _____           | Receipt Form _____          | Recommended _____  |
| Contract _____         | Owner Evidence _____        | Reviewed By _____  |
| Q&A Sheet _____        | Table of Contents _____     |                    |
| Escrow _____           | Financial Information _____ |                    |
| Conv. Insp. Rpt. _____ | Termite Insp. Rpt. _____    |                    |

1) Name of Condominium Bella Capri, a Condominium

Street Address 604 Gulf Blvd.

City Indian Rocks Beach County Pinellas State Florida Zip Code 33785

2) Name of Developer/Owner Indian Rocks Beach Development, LLC

Mailing Address Post Office Box 1839

City Tampa State Florida Zip Code 33601 Telephone (\_\_\_\_) \_\_\_\_\_

3) Developer's Attorney/Agent Foley & Lardner LLP, Attention: Thomas M. Little

Mailing Address 100 N. Tampa St., Suite 2700

City Tampa State Florida Zip Code 33602 Telephone (813) 229-2300

Correspondence preference (please check) Facsimile \_\_\_\_\_ Email X \_\_\_\_\_ Postal Mail \_\_\_\_\_

Facsimile (813) 221-4210 Email address: tlittle@foley.com

4) Name of Condominium Association Bella Capri Condominium Association, Inc.  
Mailing Address Post Office Box 1839 Telephone (      )                       
City Tampa County Hillsborough State Florida Zip Code 33601

UNIT INFORMATION

- 5) What is the total number of units in the condominium as described in the Declaration of Condominium (if a phase condominium filing pursuant to s. 718.403, F.S., what is the total number of units in all phases described in the Declaration?) 24
- 6) If a phase condominium pursuant to s. 718.403, F.S., what is the total number of units in the phase(s) being filed? N/A
- 7) Have residential units been offered for sale in this condominium by another developer? Yes  No
- 8) In order to determine the fees now payable pursuant to s. 718.502(3), F.S, what is the number of units to be sold by the developer submitting this statement? (If a phase condominium pursuant to s. 718.403, F.S., what is the number of units in phases being filed with this statement?) 24

CONDOMINIUM TYPE INFORMATION

- 9) Is this condominium in a development that contains more than one condominium? Yes  No   
If yes, please answer a, b and c below.
- a) Does each separate condominium have its own association? N/A
- b) Is there only one association that operates all the condominiums? N/A
- c) Are there both a separate association for each condominium and a master/umbrella association? N/A
- 10) Will this condominium initially contain timesharing plans or interval ownership units? Yes  No
- 11) Has the developer reserved the right to create timesharing estates in this condominium at some future date? Yes  No   

(NOTE: a complete timesharing filing pursuant to Chapter 721, Florida Statutes, must be submitted to the Division prior to offering if the developer exercises this right.)
- 12) Is this condominium a conversion of existing, previously occupied improvements? (Conversion Condominium) Yes  No
- 13) Is this a phase condominium pursuant to the requirements of s. 718.403, F.S.? (Phase Condominium) Yes  No

- 14) Are the units in this condominium comprised of land only?  
(Land Condominium) Yes  No
- 15) Is this condominium in a development that contains, presently includes, or will include other types of home ownership such as single-family detached homes or townhouses?  
(Planned Unit Development) Yes  No
- 16) What other legal condominium type not specified in Questions 9 through 14 might characterize this condominium?  
(Example: Mixed-Use Commercial/Residential; Leasehold; Hotel Condominium) N/A

RECORDING INFORMATION

- 17) Is the Declaration of Condominium recorded? Yes  No
- If yes, please provide the following information:
- Date Recorded \_\_\_\_\_ Book \_\_\_\_\_ Page \_\_\_\_\_
- County Where Recorded \_\_\_\_\_

CONSTRUCTION INFORMATION

- 18) If the construction or remodeling, landscaping and furnishing of the condominium property are not substantially complete in accordance with s. 718.202, F.S., what is the anticipated completion date? December 31, 2008

SHARED FACILITIES

- 19) Does or will this condominium share recreational or other facilities with other condominiums for which unit owners are assessed? Yes  No
- 20) If the answer to Question No. 19 is yes, is the total number of units in all condominiums that will share facilities greater than 20? N/A
- 21) Does the association operating this condominium employ professional management? If yes, please answer a, b, c and d below. Yes  No
- a) Is there a written management contract? Yes  No
- b) Is the management provided by a company? Yes  No
- c) Is the developer of this condominium affiliated with the professional management? Yes  No
- d) Is there a resident manager? Yes  No

LEASE INFORMATION

- 22) Are any units within this condominium subject to a recreational facilities lease? Yes  No
- 23) Are units in this condominium subject to a land lease? Yes  No

FINANCIAL INFORMATION

- 24) Is the developer obligated under any mortgage encumbering this development? Yes  No

If yes, please provide the following information:

Name of Lender Bank of Tampa

Address 4600 W. Cypress Street, 1<sup>st</sup> Floor

City Tampa State FL Zip 33607 Telephone (\_\_\_\_) \_\_\_\_\_

MISCELLANEOUS INFORMATION

- 25) Is there a sales brochure for this condominium offering? Yes  No
- 26) As a condition of ownership, are unit owners in this condominium required to join a club such as a golf or tennis club? Yes  No
- 27) What is the date of the annual meeting of the association for this condominium? October 1 – December 31

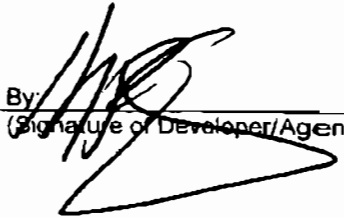
DEVELOPER INFORMATION

- 28) Is there a Developer guarantee for common expenses? Yes  No   
If yes, identify in which document and section the guarantee language is found. Section 14, Declaration
- 29) If the developer has offered for sale or lease residential condominium units described by the attached documents for which there is a filing requirement prior to this filing being submitted to the Division, are copies of these contracts attached so that the Division may assure that all documents to which purchasers are entitled are in proper form? Yes  No
- 30) If the developer has closed on any contracts for sale, or contracts for lease with a lease period of more than five (5) years, prior to notification by the Division that the filing is proper or presumed proper, are copies of those contracts and deeds, if deeded, attached so that the Division may assure that all documents to which purchases are entitled are in a proper form? Yes  No

31) Is the information contained herein true and correct as of the date hereof and no material facts requested have been omitted to the best of your knowledge? Yes  No

Indian Rocks Beach Development, LLC  
(Type or Print Name)

MANAGER  
(Title)

By:   
(Signature of Developer/Agent)

10-31-2006  
(Date)



**PROSPECTUS**  
**FOR**  
**BELLA CAPRI,**  
**A CONDOMINIUM**

**\* \* \* \***

**PINELLAS COUNTY, FLORIDA**

**Effective Date: November 1, 2006**

**1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.**

**2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS AND SALES MATERIALS.**

**3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT REPRESENTATIONS.**

## **SUMMARY**

The following constitute all statements required by §718.504 of the Florida Statutes to be in conspicuous type in the Prospectus.

**THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.**

**THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS AND SALES MATERIALS.**

**ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT REPRESENTATIONS.**

**THIS CONDOMINIUM IS BEING CREATED AND SOLD AS FEE SIMPLE INTERESTS.**

(See: Paragraph 1.4 of the Prospectus for details.)

**RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION.**

(See: Section 2.1 of the Prospectus for details.)

**THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**

(See: Section 1.4 of the Prospectus for details.)

**THE DEVELOPER HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD.**

(See: Section 4.1 of the Prospectus for details.)

**THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED.**

(See: Sections 5.1, 5.2 and 5.3 of the Prospectus for details.)

**THERE IS A CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH PROFESSIONAL BAYWAY MANAGEMENT COMPANY, INC.**

(See: Section 12 of this Prospectus for details.)

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## **EXHIBITS**

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|-----|--|------------|
| 1.  | Declaration of Condominium                                       | Exhibit 1  |
|     | A.    Legal Description  |            |
|     | B.    Survey, Graphic Description and Plot Plan                  |            |
|     | C.    Articles of Incorporation                                  |            |
|     | D.    Bylaws   |            |
| 2.  | Description of Units   | Exhibit 2  |
| 3.  | Summary of Use Restrictions                                      | Exhibit 3  |
| 4.  | Rules and Regulations  | Exhibit 4  |
| 5.  | Estimated Operating Budget                                       | Exhibit 5  |
| 6.  | Purchase and Sale Agreement                                      | Exhibit 6  |
| 7.  | Escrow Agreement   | Exhibit 7  |
| 8.  | Sales Brochure   | Exhibit 8  |
| 9.  | Receipt for Condominium Documents                                | Exhibit 9  |
| 10. | Form of Special Warranty Deed                                    | Exhibit 10 |
| 11. | Evidence of the Developer's Interest in the Condominium Property | Exhibit 11 |
| 12. | Frequently Asked Questions and Answers Sheet                     | Exhibit 12 |
| 13. | Management Agreement   | Exhibit 13 |

## PROSPECTUS

### **BELLA CAPRI, A CONDOMINIUM**

The Condominium Units offered for sale pursuant to this Prospectus comprise the condominium known as BELLA CAPRI, a Condominium (the "Condominium"), located in Pinellas County, Florida.

#### 1. General Description.

1.1 Definitions. When the term "Declaration" is used, it refers to the Declaration of Condominium of BELLA CAPRI, a Condominium (the "Declaration"), a copy of which is attached as Exhibit 1 to this Prospectus. All other capitalized terms used shall have the meanings ascribed to them in the Declaration.

1.2 Description of Condominium Property. The land on which the Condominium will be constructed consists of approximately one (1) acre located in Pinellas County, Florida. The Condominium is a condominium containing multi-family residential condominium units. The Condominium will not be developed as a phased condominium. The Declaration provides for one (1) building containing twenty-four (24) residential condominium units ("Units"), as shown on the Survey, Graphic Description and Plot Plan, which is Exhibit "B" attached to the Declaration of Condominium. The number of bedrooms and bathrooms in each Residential Unit in the condominium is set forth on Exhibit "A" attached hereto.

The land upon which the Condominium is located is legally described on Exhibit "A" to the Declaration. The Survey, Graphic Description and Plot Plan for the Condominium identifying the Units is located on Exhibit "B" to the Declaration. The Survey, Graphic Description and Plot Plan attached as Exhibit "B" to the Declaration identifies the different Unit types, the number of bathrooms and bedrooms for each Unit type and includes the floor plans for the Unit types. The floor plans depicted on the Survey, Graphic Description and Plot Plan attached as Exhibit "B" to the Declaration are the standard floor plans and if the Developer approves of the change, in its sole discretion, each individual Purchaser may have the floor plans customized to reflect a different design, based on the Purchaser's individual needs or desires. The estimated latest date of completion of constructing, finishing and equipping the Condominium of the Condominium Property is **December 31, 2008**.

1.3 Maximum Number of Units to Use Facilities Constructed by the Developer. Pursuant to the provisions of the Declaration, the maximum number of Units that will use facilities constructed by the Developer that constitute the Condominium Property of the Condominium in common is twenty-four (24).

#### 1.4 Leasing of Units.

**THE CONDOMINIUM IS BEING CREATED AND SOLD AS FEE SIMPLE INTERESTS.**

(See the Purchase and Sale Agreement, Exhibit 6 to this Prospectus, for details.)

Fee simple title to each Unit will be conveyed rather than merely being a leasehold interest. The existing plan of Developer does not include a program of leasing Units rather than selling them, or leasing Units and selling them subject to such leases. Nonetheless, the Developer is not prohibited from leasing units. Should economic or other conditions require, the Developer may offer to lease Units pending the sale of the Unit. If a Unit is leased, a prospective purchaser of the Unit will be so advised prior to entering into a Purchase Agreement. There is no limitation on the number or identity of the Units that may be leased.

### **THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**

(See: Section 1.4 of the Prospectus for details.)

2. Recreational and Other Commonly Used Facilities. The recreational and other commonly used facilities that will be submitted to Condominium ownership as part of the Condominium are as follows, which are to be used, except as provided herein, or in the Declaration, to the contrary, exclusively by the Owners of the Units in the Condominium, and their guests, tenants, and invitees:

2.1 Pool. A heated swimming pool consisting of approximately four hundred seventy-nine (479) square feet of surface area, with an approximate maximum depth of five (5) feet and a capacity of approximately twenty (20) persons (the "Pool"), as more particularly noted on the Survey, Graphic Description and Plot Plan attached as Exhibit "B" to the Declaration;

2.2 Outdoor Jacuzzi. One heated jacuzzi with jets of approximately fifty (50) square feet and a capacity of approximately five (5) persons (the "Outdoor Jacuzzi"), as more particularly noted on the Survey, Graphic Description and Plot Plan attached as Exhibit "B" to the Declaration;

2.3 Pool Deck. A pool deck surrounding the Pool (the "Pool Deck") consisting of approximately four thousand four hundred forty-six (4,446) square feet with a capacity of approximately one hundred thirty-two (132) persons, as more particularly noted on the Survey, Graphic Description and Plot Plan attached as Exhibit "B" to the Declaration; and

2.4 Atrium. A center Atrium consisting of approximately two thousand (2,000) square feet with a capacity of approximately twenty-five (25) persons, as more particularly noted on the Survey, Graphic Description and Plot Plan attached as Exhibit "B" to the Declaration.

The approximate location of the recreational and other commonly used facilities intended to be constructed in connection with the Condominium are indicated on the Survey, Graphic Description and Plot Plan attached as Exhibit "B" to the Declaration and shall be located on the lands legally described in Exhibit "A" attached to the Declaration.

The Developer may in its sole and absolute discretion enlarge, modify or add recreational facilities on the Condominium Property so as to result in the imposition of additionally Common Expenses or costs to the individual Unit Owners. The design, commencement and progress of any such construction, however, will be in the sole discretion of the Developer. The estimated latest date of completion of constructing, finishing and equipping the foregoing recreational and other commonly used facilities is **December 31, 2008.**

**RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION.**

(See: Subsection 28.3 and Section 29 of the Declaration for details).

2.5 Personal Property and Maintenance. The Developer will spend a minimum amount of one thousand dollars (\$1,000.00) to supply items of miscellaneous pool and patio furniture and other personal property in the foregoing recreational facilities.

3. Estimated Operating Budget and Guaranteed Assessment.

3.1 Estimated Operating Budget. The Estimated Operating Budget for the Association and a schedule of the estimated quarterly maintenance assessments is found in Exhibit 5 to this Prospectus. Buyer understands and agrees that the Estimated Operating Budget for the Association (the “Budget”) contained in the Condominium Documents provides only an estimate of what it will cost to run the Association during the period of time stated in the Budget. The quarterly assessments shown for the Unit are guaranteed, if at all, in the manner stated in this Prospectus. The Budget however, as opposed to the levels of assessments payable to the Association, is not guaranteed to accurately predict actual expenditures. Changes in the Budget may be made at any time to cover increases or decreases in actual expenses or in estimates. It is intended that the Developer, as the sole Unit Owner upon the formation of the Condominium, will vote not to provide any reserves for the initial year of the Association. Thereafter, to the extent permitted by the Condominium Act, the Developer may vote to continue not to provide any reserves. If an election is in fact made to waive reserves, the assessments per unit payable to the Association will be as set forth in the Estimated Operating Budget as “Assessments per Unit - Without Reserves”. If no such election is made, the assessments per Unit payable to the Association will be as set forth in the Estimated Operating Budget as “Assessments per Unit — With Reserves. There is a lien or lien right against each Unit to secure the payment of assessments, regular or special, or other exactions coming due for the use, maintenance, upkeep or repair of the common facilities of the Condominium and Common Expenses of the Association. The Unit Owner’s failure to make these payments may result in foreclosure of the lien.

3.2 Guaranteed Assessment. The Developer shall not be liable for the payment of assessments on Condominium Units that it owns during the period that the Developer has guaranteed the assessment. The Developer has guaranteed to each Unit Owner that the assessment of Common Expenses of the Condominium imposed upon the Unit Owner other than the Developer will not exceed the following amounts for each Unit and time periods:

| <b>Monthly Amount</b><br>(Period beginning upon recording<br>this Declaration through remainder<br>of the first fiscal year) | <b>Monthly Amount</b><br>(for the period from the 1st day<br>of the 2nd fiscal year,<br>through end of guarantee period) |
|--|--|
| <u>\$518.33</u>  | <u>\$596.07</u>  |

The period commences with the recording of the Declaration and continues until the expiration of six (6) months from the date of recording the Declaration, or turnover of control of the Association, whatever occurs earlier. The Association’s fiscal year shall be from January 1 through December 31, unless the Board determines otherwise. During such period the



Developer will pay to the Association any amount of Common Expenses incurred during that period which exceeds the guaranteed level of assessments against other Unit Owners. The Developer reserves the right to extend the guarantee for one or more additional six (6) month periods, although the quarterly guarantee amount may not change from the last level set forth above.

4. Control of Association.

4.1 Control of Association. The Developer presently controls the Board as permitted by the Declaration and has the right to retain control for a period of time which may exceed one (1) year after sale of a majority of the Units. When Unit Owners other than the Developer own fifteen percent (15%) or more of the Units in the Condominium, the Unit Owners other than the Developer shall be entitled to elect not less than one-third (1/3) of the Board. Unit Owners other than the Developer are entitled to elect not less than a majority of the members upon the earlier of the following events:

4.1.1 Three (3) years after fifty percent (50%) of the Condominium Units that will be operated ultimately by the Association have been conveyed to purchasers;

4.1.2 Three (3) months after ninety percent (90%) of the Condominium Units that will be operated ultimately by the Association have been conveyed to purchasers;

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

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

4.1.5 Seven (7) years after recordation of the Declaration. Provided, however, that the Developer shall be entitled to appoint at least one (1) member of the Board of Directors as long as the Developer holds for sale in the ordinary course of business at least 5% of the Units operated by the Association.

**THE DEVELOPER HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD.**

(See: Article IX of the Articles of Incorporation attached as Exhibit "C" to the Declaration for Details.)

5. Restrictions.

5.1 Transfer Restrictions. All terms and conditions of the Declaration are covenants running with the land and each Condominium Unit. By acceptance of a deed, each Unit Owner agrees to be bound by the provisions of the Condominium Documents, whether or

not so stated in the deed. There are specific restrictions on the sale or transfer of Condominium Units, including a Developer right of first refusal, which are set forth in Section 19 of the Declaration.

**THE SALE, LEASE OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED.**

(See: Section 19 of the Declaration for Details).

5.2 Lease Restrictions and Restrictions Against Time-Shares. No Condominium Unit shall be leased for a period less than thirty (30) consecutive days, nor more than three (3) times per calendar year, nor shall any Condominium Unit be leased without the prior written approval of the Board, which approval is subject to the Board's sole and absolute discretion, nor shall any Condominium Unit be used or sold on a "time-share or fractional" basis. The Association reserves the right to charge a fee not to exceed \$100.00 for review of each proposed lease.

(See: Section 19 of the Declaration for details.)

5.3 Use Restrictions. Following is a summary of restrictions to be imposed on Condominium Units concerning use of any of the Condominium Property.

There are no restrictions against children at the Condominium Project. No household pets shall be permitted by Unit Owners on the Condominium Property except in accordance with the pet behavior criteria established in the Rules and Regulations for the Condominium. Furthermore, all permitted pets must be contained in the Unit Owner's Condominium Unit and shall not be permitted to roam free. Further, all permitted pets must be leashed at all times when not located in the Condominium Unit and may be walked only in designated areas. No goats, chickens, pigeons or any other obnoxious animals, fowl or reptiles shall be kept or permitted to be kept. Commercial activities involving pets shall not be allowed. Each Condominium Unit shall be used as a residence and/or home office only, except as otherwise herein expressly provided, all in accordance with all applicable county and state codes, ordinances and regulations. All automobiles shall be parked only in the parking spaces so designated for that purpose by the Association, and in accordance with the Association's rules and regulations concerning same. No commercial truck, commercial van, or other commercial vehicle, and no boat, boat trailer or other trailer of any kind, camper, mobile home, disabled vehicle, motor home or recreational vehicle shall be used on the Condominium Property as a domicile or residence, either permanent or temporary. Each Unit Owner may only identify his or her Condominium Unit by a name plate if approved by the Association and mounted in a place and manner so approved. No signs, advertising, or notices of any kind or type whatsoever shall be permitted or displayed on any Condominium Unit or, Common Element or Limited Common Element. No improper, offensive, hazardous or unlawful use shall be made of the Condominium or Association Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. All damage to Condominium Property caused by the moving and/or carrying of articles therein shall be paid by the Unit Owner or person in charge of such articles. Soliciting is strictly forbidden. Unit Owners or residents shall make no repairs to any plumbing or electrical wiring within a Unit except by a plumber or electrician licensed in Pinellas County, Florida. Unit Owners shall not use the guest parking spaces for their own personal use. There shall be no barbecuing nor

grilling on any of the patios or balconies, except for a unit equipped with an outdoor kitchen by the Developer. No Unit Owner may hold or conduct an open house for sale of the Unit Owner's Unit, without the prior written approval of the Board of Directors. In order to create a congenial community and to protect property values, use of the Condominium is subject to certain other restrictions. The restrictions on the use of the Condominium Property are found in Section 21 of the Declaration and are summarized on Exhibit 3 to this Prospectus. The Association may adopt from time to time additional restrictions affecting use and occupancy of the Condominium Property. A more complete summary of the existing Use Restrictions are attached as Exhibit 3 to this Prospectus.

(See: Section 21 of the Declaration for details.)

## 6. Utility and other Services.

6.1 Utilities and Other Services. The utilities available at the Condominium Units include electricity, telephone, water and sewer. Electricity to each Condominium Unit is supplied by Progress Energy and each Unit Owner will receive a separate bill based on metered usage. Telephone service is provided by Verizon, and each Unit Owner will be separately billed for telephone services. Cable television is provided by Brighthouse Networks and the costs for the basic cable package will be a common expense of the Association. Water service to the Condominium Units will be provided by Pinellas County, Florida and sewer service will also be provided by the Pinellas County, Florida. The water service and sewer service will be separately billed based on metered usage. Natural Gas for the Pool and Outdoor Jacuzzi will be provided by Clearwater Gas and the costs will be a common expense of the Association. It is not currently contemplated that Natural Gas will be provided for the Units, but the Developer reserves the right to effectuate the installation of such service in the future. Disposition of garbage and trash will be provided by the waste management division of the Pinellas County, Florida and the costs will be a common expense of the Association. Storm drainage on the Condominium Property is provided for by underground drainage pipes or surface retention. All or any part of the water and/or sewer utility facilities located on the Condominium Property may be conveyed by the Developer and/or the Association to the appropriate utility.

7. Apportionment of Common Elements, Common Expenses and Common Surplus. The Owner(s) of each Unit will own an undivided interest in the Common Elements of the Condominium and Common Surplus of the Condominium Association and shall be obligated for a proportionate share of the Common Expenses. Generally speaking, the Common Elements consist of all parts of the Condominium Property not included in the Units. The Common Expenses include all expenses and assessments properly incurred by the Association for the Common Elements and/or the Association, which are to be shared by the Unit Owners, including, without limitation, (a) the costs of maintaining, operating and insuring the Common Elements, (b) all reserves required by the Condominium Act or otherwise established by the Association, regardless of when reserve funds are expended; (c) the cost of a duly franchised cable television service obtained pursuant to a bulk contract; (d) the cost of any bulk contract for broadband, telecommunications, satellite and/or internet services, if any; (e) if applicable, costs relating to insurance for directors and officers, in-house and/or interactive communications and surveillance systems; (f) the real property taxes, assessments and other maintenance expenses attributable to any Units acquired by the Association or any Association Property; (g) to the extent that Board determines to shutter the Buildings, or portions thereof, all expense of

installation, repair, and maintenance of such hurricane shutters by the Board (provided, however, that a Unit Owner who has already installed hurricane shutters (or other acceptable hurricane protection) shall receive a credit equal to the pro rata portion of the assessed installation cost assigned to each Unit but shall not be excused from any portion of expenses related to maintenance, repair, replacement or operation of same); (h) any lease payments required under leases for mechanical and/or other equipment, including without limitation, leases for recycling equipment, as it is intended that any such recycling equipment be leased rather than owned; (i) all expenses related to the installation, repair, maintenance, operation, alteration and/or replacement of Life Safety Systems, (j) the seawall, and (k) any unpaid share of Common Expenses or assessments extinguished by foreclosure of a superior lien or by deed in lieu of foreclosure.

The Developer has not considered the size of the Unit in apportioning the Common Expenses and in determining the ownership of Common Elements and Common Surplus. Each Unit has an undivided one/twenty-fourth (1/24th) share in the ownership in the Condominium of the Common Elements and the Common Surplus, and in apportioning the Common Expenses.

#### 8. Unit Purchaser's Closing Expenses.

8.1 Closing Expenses. A copy of the Purchase and Sale Agreement used by the Developer is set forth in Exhibit 6 of this Prospectus. The actual closing expenses to be paid by the purchaser of a Unit (the "Purchaser") at the Condominium will vary in relation to the purchase price of the particular Unit purchased. The Developer will furnish and pay for the owner's title insurance policy from Foley & Lardner LLP (the "Escrow Agent"), whose address is 100 North Tampa Street, Suite 2700, Tampa, Florida 33602. Purchaser shall pay all additional costs and fees incident to the securing of financing and the closing of the contemplated purchase and sale not specifically assigned to the Developer, including, but not limited to, all loan fees and costs of recordation of instruments. Other closing costs to be paid by the Purchaser at closing are: (i) the current quarterly assessments of the Association, prorated for the quarter in which the sale of the Condominium Unit closed; (ii) the documentary stamp taxes on the special warranty deed (the form of which is attached to this Prospectus as Exhibit 10); (iii) the recording fee for the deed, together with the other costs set forth in Section 5 of the Purchase and Sale Agreement; (iv) property taxes subsequent to date of closing; and (v) one-time operating capital contribution to the Association. In addition, if the Purchaser arranges mortgage financing for the purchase of the Unit, all costs incurred in connection with such financing shall be paid by the Purchaser. The Purchaser will be responsible for the following costs based on the rates effective as of November 1, 2006, and any subsequent increases to said costs after November 1, 2006:

8.1.1 Florida documentary stamps on the Deed as of November 1, 2006 is at the rate of seventy cents (\$0.70) per one hundred dollars (\$100.00) (or fraction thereof) of the purchase price for the Unit;

8.1.2 Florida documentary stamps on the promissory note which as of November 1, 2006 is at the rate of thirty-five cents (\$0.35) per one hundred dollars (\$100.00) (or fraction thereof) of principal of note;

8.1.3 Florida intangible tax on the mortgage which as of November 1, 2006 is equal to two mills (\$0.002) times the principal amount of the note secured by the mortgage;

8.1.4 Recording fees to record the deed, and if applicable, the mortgage, which as of November 1, 2006 is equal to ten dollars (\$10.00) for the first page of each document and eight and 50/100 dollars (\$8.50) per page thereafter for each document (the deed is approximately four pages and the size of mortgage depends on form used by lender);

8.1.5 Loan origination or other fee to lender (to be determined by lender);

8.1.6 Fee for credit report and appraisal (depends on amount of fee charged by lender);

8.1.7 Mortgagee Title Insurance Policy; and

8.1.8 Miscellaneous expenses charged by the Lender (to be determined by Lender).

8.2 Title Policy. An owner's title insurance commitment is provided to each Purchaser prior to or at closing. The costs of the owner's title insurance policy issued pursuant to the Commitment will be paid as provided in Section 8.1 above. If a mortgagee policy is issued, the cost of the mortgagee title insurance policy will be paid by the Purchaser.

9. Identity of Developer.

9.1 Developer. The Developer of the Condominium is Indian Rocks Beach Development, LLC, a Florida limited liability company. The Developer is managed by its sole manager, Suarez Financial Group, Inc., a Florida corporation (the "Manager"). The President of the Manager is Henry R. Suarez. The Developer was created for the purpose of developing the Condominium and accordingly has not developed other projects in the past. Mr. Suarez has experience in the field of condominium development and has been involved in other projects in Pinellas County, including condominium developments known as Villas CeSar and Bella Casa.

The information provided above is given solely for the purpose of complying with Section 718.504(23), Florida Statutes, and is not intended to create or suggest any personal liability on the part of Henry R. Suarez.

10. Easements. Developer does not intend to create any easement affecting the Condominium other than those set forth in the Declaration or any other easements required by a utility provider or government agencies.

11. Developer Rights.

11.1 Rights Retained by Developer. Pursuant to Section 8 and Section 24 of the Declaration, and in addition to the reservation of certain easements and rights to grant certain easement(s) and/or ground lease(s) as stated in Section 6 and Section 40 of the Declaration, the Developer has retained the following rights:

11.1.1 To furnish the Condominium Property;

11.1.2 To sell, lease or rent Units;

11.1.3 To assign parking spaces to Unit Owners during the period of time Developer holds any Units for sale in the ordinary course of business;

11.1.4 The right to transact on the Condominium Property any business necessary to consummate the sale of Condominium Units; and

11.1.5 So long as it holds a Unit for sale in the ordinary course of business, the right to operate a sales facility on the Condominium Property.

12. Arrangements for Management of the Association and Maintenance and Operation of the Condominium.

**THERE IS A CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH PROFESSIONAL BAYWAY MANAGEMENT COMPANY, INC.**

(See Exhibit 13 to this Prospectus.)

The management of the Condominium is the responsibility of Bella Capri Condominium Association, Inc., a Florida corporation not for profit (hereinafter referred to as the “Association”). Pursuant to the Declaration and the Articles of Incorporation and the Bylaws of the Association, the Board of Directors is responsible for the management of the Association and is empowered to enter into contracts and employ agents, contractors, and employees for the management and maintenance of the Condominium. (See the Declaration [Exhibit 1 to this Prospectus], the Articles of Incorporation and Bylaws of the Association [Exhibits “C” and “D”, respectively, to the Declaration].)

The Association has entered into a contract (the “Association’s Management Agreement”) for professional management of the Condominium property with Professional Bayway Management Company, Inc., a Florida corporation (the “Condominium Manager”), requiring the Condominium Manager to perform all accounting, collection and administrative services for the Association for a fee \$21.66 per Unit per month. There is a provision in the Association’s Management Agreement for an annual five percent (5%) increase in such fee. Subject to the terms and conditions of Chapter 718, Florida Statutes, the initial term of the Association’s Management Agreement shall be for three (3) years, and upon expiration of such initial term, the Association’s Management Agreement shall be automatically renewed for successive one (1) year terms, unless otherwise terminated in accordance with the terms of the Management Agreement. Also, either the Association or Condominium Manager may terminate the Management Agreement upon two (2) months notice to the other party. A copy of the Association’s Management Agreement is attached to this Prospectus as Exhibit 13.

13. General. The foregoing is not intended to present a complete summary of all of the provisions of the various documents referred to herein, but does contain a fair summary of certain provisions of said document. Statements made as to the provisions of such documents are qualified in all respects by the content of such documents.

14. Definitions. The definitions set forth in the Declaration of Condominium shall be applicable to this Prospectus, unless otherwise specifically stated or unless the context would prohibit.

**Exhibit "A"**

| <b><u>Unit No.</u></b> | <b><u>Bedrooms</u></b> | <b><u>Bathrooms</u></b> |
|------------------------|------------------------|-------------------------|
| 201                    | 3                      | 4                       |
| 202                    | 2                      | 3                       |
| 203                    | 2                      | 3                       |
| 204                    | 3                      | 4                       |
| 205                    | 3                      | 3                       |
| 206                    | 2                      | 3                       |
| 207                    | 2                      | 3                       |
| 208                    | 3                      | 3                       |
| 301                    | 3                      | 4                       |
| 302                    | 2                      | 3                       |
| 303                    | 2                      | 3                       |
| 304                    | 3                      | 4                       |
| 305                    | 3                      | 3                       |
| 306                    | 2                      | 3                       |
| 307                    | 2                      | 3                       |
| 308                    | 3                      | 3                       |
| 401                    | 3                      | 4                       |
| 402                    | 2                      | 3                       |
| 403                    | 2                      | 3                       |
| 404                    | 3                      | 4                       |
| 405                    | 3                      | 3                       |
| 406                    | 2                      | 3                       |
| 407                    | 2                      | 3                       |
| 408                    | 3                      | 3                       |



THIS INSTRUMENT PREPARED BY  
AND RETURN TO:  
Thomas M. Little, Esquire  
Foley & Lardner LLP  
Post Office Box 3391  
Tampa, Florida 33601-3391

**DECLARATION OF CONDOMINIUM**  
**OF**  
**BELLA CAPRI, A CONDOMINIUM**

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Tampa, Florida 33601

**DECLARATION OF CONDOMINIUM**  
**OF**  
**BELLA CAPRI**

This DECLARATION OF CONDOMINIUM of Bella Capri, a Condominium (the "Declaration") is made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by Indian Rocks Beach Development, LLC, a Florida limited liability company (the "Developer"), for itself, its successors, grantees and assigns:

**WITNESSETH:**

WHEREAS, Developer is the owner in fee simple of certain real property, lying and being situated in Pinellas County, Florida, as more particularly set forth in Exhibit "A" attached hereto, which lands are herein called "the Land", subject to reservations, restrictions and easements of record; and

WHEREAS, the Developer contemplates erecting upon the Land multi-unit residential buildings, housing a total of twenty-four (24) residential Condominium Units and related facilities on a portion of the Land described on Exhibit "A" and desires to submit it to condominium ownership pursuant to Chapter 718, Florida Statutes, the Condominium Act, as it exists on the date hereof; and

NOW, THEREFORE, the Developer makes the following declarations:

1. NAME. The name by which this Condominium is to be identified is Bella Capri, a Condominium.

2. DEFINITIONS. For all purposes in this Declaration and for all purposes in the Articles of Incorporation and Bylaws of Bella Capri Condominium Association, Inc., a Florida corporation not for profit, the following words shall have the definitions as hereinafter stated, to-wit:

(a) Articles. The Articles of Incorporation of the Association, as same may be amended from time to time.

(b) Assessments. Assessment means a share of the funds required for the payment of Common Expenses, which from time to time are assessed against the Condominium and its Unit Owner.

(c) Association. Association means Bella Capri Condominium Association, Inc., a Florida corporation not for profit, which is responsible for the operation of the Condominium, the Common Elements (as defined hereafter) and the Common Facilities (as defined hereafter), its successors and assigns.

(d) Board of Directors or Board. The Board of Directors or other representative body responsible for administration of the Association.

(e) Building. Any building contained within the Condominium Property from time to time as herein provided.

(f) Bylaws. The Bylaws of the Association as may be amended from time to time.

(g) Common Elements. Common Elements mean and include in addition to the items as listed in Section 718.108, *Florida Statutes*, the following items:

(1) The portions of the Condominium Property which are not included within the Units.

(2) Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to Units and/or Common Elements.

(3) An easement of support in every portion of a Unit which contributes to the support of the Building.

(4) The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements.

(5) Any other parts of the Condominium Property designated as Common Elements in this Declaration, which shall specifically include the Surface Water Management System and Storm Water Management System for the Condominium.

(6) Any and all portions of the Life Safety Systems (as hereinafter defined), regardless of where located within the Condominium Property.

(7) Cross-easements for ingress, egress, support, maintenance, repair, replacements and utilities.

(8) Easements for encroachments by the perimeter walls, ceilings and floors surrounding each Condominium Unit caused by the settlement or movement of the Building or by minor inaccuracies in building or rebuilding

which may now exist or hereafter exist, and such easements shall continue until such encroachments no longer exist.

(9) Roads installed on the Condominium property by the Developer or any third party with the approval of the Developer that have not been dedicated to the State of Florida or a political subdivision thereof.

(10) The recreational and other commonly used facilities depicted on the Survey, Graphic Description and Plot Plan attached as Exhibit "B" to this Declaration;

(11) The elevators depicted on the Survey, Graphic Description and Plot Plan attached as Exhibit "B" to this Declaration;

(12) The entrance way improvements;

(13) Mailboxes in such location as determined by the Developer; and

(14) The surface water management system for the land.

Some components of the Condominium which are typical "common elements" of a condominium have instead been designated as Limited Common Elements. References herein to Common Elements also shall include the Limited Common Elements unless the context would prohibit or it is otherwise expressly provided. Notwithstanding any provision to the contrary, amendments to the Common Elements may be made as provided for in Sections 718.110(5) and 718.110(6), *Florida Statutes*.

(h) Common Facilities or Association Property. Any real property or improvements thereon and any personal property owned by the Association for the use and benefit of the Unit Owners.

(i) Common Expenses. All expenses and assessments properly incurred by the Association for the Condominium.

(j) Common Surplus. The excess of all receipts of the Association collected on behalf of the Condominium, including, but not limited to, assessments, rents, profits and revenues on account of the Common Elements, over the Common Expenses.

(k) Condominium. Bella Capri, a Condominium, which is formed pursuant to this Declaration.

(l) Condominium Form of Ownership. That form of ownership of real property created pursuant to the provisions of Chapter 718, *Florida Statutes*, the "Condominium Act", and which is composed of Condominium Units that may be owned by one or more persons and, appurtenant to each Condominium Unit, an undivided share in the Common Elements.

(m) Condominium Act. Chapter 718, *Florida Statutes*, as it exists on the date hereof, which is incorporated herein by reference. All provisions thereof shall apply to this Condominium.

(n) Condominium Parcel. The Condominium Unit, together with the undivided share in the Common Elements appurtenant thereto.

(o) Condominium Unit or Unit. That part of the Condominium Property which is subject to exclusive ownership.

(p) Condominium Property. The lands, leaseholds and personal property that are submitted to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto provided by the Developer intended for use in connection with the Condominium.

(q) Declaration or Declaration of Condominium. The instrument or instruments by which this Condominium is created, as they are from time to time amended.

(r) Developer. Developer means Indian Rocks Beach Development, LLC, a Florida limited liability company, its successors or assigns, or any other person who creates the Condominium or offers Condominium Parcels for sale or lease in the ordinary course of business, but does not include an owner or lessee of a Condominium Unit who has acquired his or her Unit for his or her own occupancy.

(s) Institutional Mortgagee. Shall include any bank, federal savings and loan association, a state savings and loan association, an institutional investor, mortgage banker, the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation, federal or state agency, insurance company and/or a real estate investment trust or any other similar type of lender generally recognized as an institutional-type lender holding a mortgage on one or more Condominium Units or all or part of the Condominium Property and the successors and/or assigns of such entities.

(t) Life Safety Systems. Life Safety Systems mean and refer to any and all emergency lighting, audio and visual signals, safety systems, sprinklers and smoke detection systems, which are now or hereafter installed in the Buildings, whether or not within the Units. All such Life Safety Systems, together with all conduits, wiring, electrical connections and systems related thereto, regardless of where located, shall be deemed Common Elements hereunder. Without limiting the generality of the foregoing, when the context shall so allow, the Life Safety Systems shall also be deemed to include all means of emergency ingress and egress, which shall include all stairways and stair landings. Notwithstanding the breadth of the foregoing definition, nothing herein shall be deemed to suggest or imply that the Buildings or Condominium contains all such Life Safety Systems.

(u) Limited Common Elements. Limited Common Elements mean those Common Elements the use of which is reserved to a certain Unit or Units to the exclusion of other Units, as specified in this Declaration. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided. Nothing herein shall be deemed to preclude the Developer from assigning

the exclusive use of Limited Common Elements (i.e., a parking space) to one or more, but not all, of the Units, all as more particularly described in Section 3(d) below (and any such assignment shall not cause the particular item to lose its designation as a Common Element).

(v) Management Agreement. The agreement, if any, which provides for management of the Condominium Property and the Common Elements.

(w) Member. An owner of a fee simple estate in any Condominium Parcel who is a member of the Association.

(x) Unit Owner or Owner of a Condominium Unit. The record owner of legal title in a Condominium Parcel.

(y) Surface Water Management System and Storm Water Management System” shall mean and refer to the surface water management system and storm water management system for the Condominium Property including, but not limited to, all inlets, ditches, swales, culverts, water control structures, stormwater pumps, retention and detention areas, ponds, lakes, flood plain compensation areas, wetlands, and any associated buffer areas, and wetland mitigation areas, which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges.

(z) Bella Capri. Bella Capri means the lands described in Exhibit “A” of this Declaration, as are now or hereafter made subject to this Declaration, and shall include any improvements, if any, constructed thereon.

### 3. PROPERTY SUBMITTED TO CONDOMINIUM FORM OF UNIT OWNERSHIP

(a) Submission. Subject to easements, restrictions and reservations of record, and except as set forth in this Subsection 3(a), the Developer hereby submits the Land and all improvements erected or to be erected thereon and all other property, real, personal or mixed, now or hereafter situated on or within the Land – but excluding all public or private (e.g. cable television and/or other receiving or transmitting lines, fiber, antennae or equipment) utility installations therein or thereon –to the condominium form of ownership and use in the manner provided for in the Florida Condominium Act as it exists on the date hereof and as it may be hereafter renumbered. Without limiting any of the foregoing, no property, real, personal or mixed, not located within or upon the Land as aforesaid shall for any purposes be deemed part of the Condominium or be subject to the jurisdiction of the Association, the operation and effect of the Florida Condominium Act or any rules or regulations promulgated pursuant thereto, unless expressly provided.

(b) Identification of Units. The Land has constructed thereon one (1) buildings containing a total of twenty-four (24) Units. Each such Unit is identified by a separate numerical or alpha-numerical designation. The designation of each of such Units is set forth on the Survey, Graphic Description and Plot Plan attached as Exhibit “B” hereto. The Survey,



Graphic Description and Plot Plan attached as Exhibit “B” consists of a survey of the Land, a graphic description of the Improvements located thereon, including, but not limited to, the Building in which the Units are located, and a plot plan thereof (the “Survey, Graphic Description and Plot Plan”). The Survey, Graphic Description and Plot Plan attached as Exhibit “B”, together with this Declaration, is sufficient in detail to identify the Common Elements and each Unit and their relative locations and dimensions. There shall pass with a Unit as appurtenances thereto: (a) an undivided share in the Common Elements and Common Surplus; (b) the exclusive right to use such portion of the Common Elements as may be provided in this Declaration, including, without limitation, the right to transfer such right to other Units or Unit Owners; (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in airspace which is vacated shall be terminated automatically; (d) membership in the Association with the full voting rights appurtenant thereto; and (e) other appurtenances as may be provided by this Declaration.

The floor plans depicted in the Survey, Graphic Description and Plot Plan are the standard floor plans and if the Developer approves of the change, in its sole discretion, each individual Unit Owner may have floor plans customized to reflect a different design, based on the Unit Owner’s individual needs or desires. Any modifications or options selected for a particular Unit by the Owner shall not be deemed a material amendment altering or modifying the Condominium in a manner adverse to any other Unit Owner. The estimated latest date of completion of constructing, finishing and equipping the Condominium Property is December 31, 2008.

(c) Unit Boundaries. Each of the Condominium Units is identified and designated as set forth in the Survey, Graphic Description and Plot Plan contained in Exhibit “B”. Each Unit shall consist of that part of the building containing such Unit which lies within the boundaries of the Unit, which boundaries are as follows:

(1) Upper Boundaries

a. The upper boundary of all Units shall be the horizontal plane of the lowest surface of the unfinished ceiling of the Unit extended to an intersection with the perimetrical boundaries.

b. The upper boundary of the portion of the Units comprising the garage shall be the plane of the lowest surface of the unfinished garage ceiling.

(2) Lower Boundaries

The lower boundary of all Units shall be the horizontal plane of the unfinished floor slab of that Unit and the horizontal plane of the unfinished garage slab extended to an intersection with the perimetrical boundaries.

(3) Perimetrical Boundaries

The perimetrical boundaries of a Unit shall be the following boundaries extended to an intersection with upper and lower boundaries:

a. EXTERIOR BUILDING WALLS:

The intersecting vertical plane(s) of the innermost unfinished surfaces of the exterior wall of the building bounding such Unit.

b. INTERIOR BUILDING WALLS:

The vertical planes of the innermost unfinished surface of the party walls dividing such Units extended to intersections with other perimetrical boundaries.

(4) Apertures

Where there are apertures in any boundary, including, but not limited to, windows and doors, such boundaries shall be extended to include the interior, unfinished surfaces of such apertures, including all frameworks thereof, exterior surfaces made of glass or other transparent materials, exterior doors of any type, including the locks, hinges and other hardware thereof, and all framings and casings thereof shall be included in the boundaries of the Unit.

(5) Air Conditioning Units

The boundaries of each Unit shall also be deemed to include all integral parts of the air conditioning unit.

(6) Excluded from Units

The Unit shall not be deemed to include utility services which may be contained within the boundaries of the Unit, but which are utilized to serve Common Elements and/or a Unit or Units other than or in addition to the Unit within which contained. Such utility services are part of the Common Elements, and shall be the maintenance responsibility of the Association. The Unit shall not be deemed to include columns or partitions contributing to the support of the building. Such columns or partitions are part of the Common Elements. Moreover, notwithstanding any provision to the contrary, pipes, wires, conduits, cable wires, or other utility lines or installations constituting a part of the overall systems designed for the service of any particular Condominium Unit, or any of the structural members or portions of any kind, including fixtures and appliances and stairways within the Condominium Unit, which are not removable without jeopardizing the soundness, safety or usefulness of the remainder of the Building or another Condominium Unit, shall not be deemed to be part of any Condominium Unit.

(7) Exceptions. In cases not specifically covered above, and/or in any case of conflict or ambiguity, the survey of the Units set forth on the Survey, Graphic Description and Plot Plan attached as Exhibit "B" hereto shall control in determining the boundaries of a Unit, except that the provisions of Section 3(c)(6) above shall control unless specifically depicted and labeled otherwise on such survey.

(d) 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:

(1) Patios, Balconies, Terraces, Patios and Lanais appurtenant to Units. Any patio, balcony, terrace and/or lanai (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). The Association shall be responsible for the maintenance of the structural and mechanical elements of any such Limited Common Elements, with the costs of same being a part of the Common Expenses. Each Owner shall, however, be responsible for the general cleaning, plant care and upkeep of the appearance of the area(s) and, for the repair and replacement of any floor coverings placed or installed on any patio, balcony, terrace and/or lanai. A Unit Owner using a patio, balcony, terrace and/or lanai or making or causing to be made any additions, alterations or improvements thereto 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.

(2) Parking Spaces and Garages. Each parking space and/or any parking garage shown on the Survey, Graphic Description and Plot Plan attached as Exhibit "B" hereto shall be a Limited Common Element only upon it being assigned as such to a particular Unit in the manner described herein. So long as Developer holds a Unit for sale in the ordinary course of business, Developer hereby reserves the right to assign, with or without consideration, the exclusive right to use any and all parking spaces and/or parking garages (if any) 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. Any such consideration shall be retained by Developer for its own account; provided, however, each Penthouse Unit shall be assigned a private two (2) car garage and all other Units shall always have the exclusive use of a minimum of one (1) assigned covered parking space. Such assignment shall not be recorded in the Public Records of the County but, rather, shall be made by way of instrument placed in the official records of the Association (as same are defined in the By-Laws). A Unit Owner may assign the Limited Common Element parking space and/or parking garage appurtenant to his or her Unit to another Unit by written instrument delivered to (and to be held by)

the Association. A Limited Common Element parking space and/or parking garage may be relocated at any time, and from time to time, by the Board to comply with applicable Federal, State and local laws and regulations regarding or affecting handicap accessibility. The maintenance of any parking space and/or parking garage so assigned shall be the responsibility of the Association. Each Owner understands and agrees that not all parking spaces are covered.

(3) Stairwells. Each stairwell labeled on the Survey, Graphic Description and Plot Plan attached as Exhibit "B" hereto shall be a Limited Common Element of the vertically aligned Units adjacent to each floor that it services. The maintenance of any stairwell shall be the responsibility of the Association.

(4) Cabanas. So long as Developer holds a Unit for sale in the ordinary course of business, Developer hereby reserves the right to assign, with or without consideration, the exclusive right to use any Cabana located within the Condominium Property and labeled as LCE on the Survey, Graphic Description and Plot Plan attached as Exhibit "B" hereto 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. A grant with respect to Cabanas shall be made by the Developer by written assignment (which shall not be recorded). All fees collected by the Developer for assigning Cabanas, if any, shall be retained by the Developer and shall not constitute income or revenue of the Association. After assignment to a Unit by the Developer, a Unit Owner may reassign the Limited Common Element Cabana appurtenant to his Unit to another Unit by written instrument delivered to (and to be held by) the Association. The costs of maintenance of any Cabanas so assigned as well as the insurance of its contents, shall be the sole responsibility of the Owner of the Unit(s) to which it is assigned. The Association shall maintain the Cabanas. The costs for performing same shall be a Limited Common Expense of the Association, which shall be paid by the Unit Owners that have subleased the Cabanas, the share for each which shall be computed based upon the total square footage of the Cabana in uniform relationship to the total square footage of all other Cabanas. So long as Developer holds a Unit for sale in the ordinary course of business, the Developer reserves the right to use the Cabanas in its sole and absolute discretion until the Cabanas are assigned to a Unit, including, but not limited to, allowing designated Unit Owners to use the same as determined by the Developer.

(5) Miscellaneous Areas, Equipment. Any fixtures or equipment (e.g., an air conditioning compressor or hot water heater) serving a Unit or Units exclusively and any area (e.g., a closet or ground slab) upon/within which such fixtures or equipment are located shall be Limited Common Elements of such Unit(s). The maintenance (and cost) of any such equipment and/or areas so assigned shall be the sole responsibility of the Owner of the Unit(s) to which the fixtures and/or equipment are appurtenant.

(6) Other. Any other portion of the Common Elements which, by its nature, cannot serve all Units but serves one Unit or more than one Unit (i.e., any hallway and/or elevator landing serving a single Unit or more than one (1) Unit owned by the same Owner) shall be deemed a Limited Common Element of the Unit(s) served and shall be maintained by said Owner. In the event of any doubt or dispute as to whether any portion of the Common Elements constitutes a Limited Common Element or in the event of any question as to which Units are served thereby, a decision shall be made by a majority vote of the Board of Directors of the Association and shall be binding and conclusive when so made. To the extent of any area deemed a Limited Common Element hereunder, the Owner of the Unit(s) to which the Limited Common Element is appurtenant shall have the right to alter same as if the Limited Common Element were part of the Owner's Unit, rather than as required for alteration of Common Elements. Notwithstanding the foregoing, the designation of same as a Limited Common Element hereunder shall not allow the Owner of the Unit to which the Limited Common Element is appurtenant to preclude passage through such areas as may be needed from time to time for emergency ingress and egress, and for the maintenance, repair, replacement, alteration and/or operation of the elevators, Life Safety Systems, mechanical equipment and/or other Common Elements which are most conveniently serviced (in the sole determination of the Board) by accessing such areas (and an easement is hereby reserved for such purposes).

(e) Recreational Facilities.

The approximate location of the recreational facilities intended to be constructed is indicated on the Survey, Graphic Description, and Plot Plan contained herein as Exhibit "B" and shall be located on the lands legally described in Exhibit "A" attached hereto. The Developer reserves the right to increase or add to the recreational facilities described in Exhibit "B" without the consent of the Unit Owners or the Association, but is not obligated to add or increase same. If the recreational facilities are increased, in addition to those described in Exhibit "B", by the Developer, the Common Expenses of the Association and the Unit Owner's maintenance expense may increase. Such recreational facilities that may be added or increased shall be whatever facilities Developer, in its sole discretion, deems necessary or desirable in connection with developing Bella Capri.

The Unit Owners shall have an obligation to contribute to the payment of expenses for maintenance, repair, replacement and insurance for such recreational and other commonly used facilities constructed as a part of the Condominium, based on each Unit Owner's undivided percentage share in the Common Expenses as set forth in Sections 8 and 9 of the Declaration. Each Unit Owner's undivided percentage share in the Common Expenses is computed based upon the ratio of one over the total number of all Units in the Condominium. There is a lien right against each Condominium Parcel to secure the payment of assessments or other exactions coming due for the use, maintenance, upkeep or repair of the recreational or commonly used facilities. The Unit Owner's failure to make these payments may result in foreclosure of the lien.

4. UNIT IDENTIFICATION. The location of the Condominium Units on the Condominium Property submitted to the Condominium Form of Ownership is set forth on the Survey, Graphic Description and Plot Plan attached hereto and made a part hereof as Exhibit "B". Each Condominium Unit is described on said Survey, Graphic Description and Plot Plan in such manner that there can be determined therefrom the identification, location, dimensions and size of each as well as the Common Elements and Limited Common Elements, if any appurtenant thereto. Each Condominium Unit is identified by a letter and/or number as shown on the Survey, Graphic Description and Plot Plan attached hereto as Exhibit "B" and made a part hereof, so that no such Condominium Unit bears the same designation as any other such Condominium Unit.

5. CHANGE IN PLANS AND SPECIFICATIONS. The Developer is hereby authorized to make changes in the plans and specifications and construction methods and materials during the construction of improvements on said Property, so long as such changes do not conflict with the Condominium Act.

6. EASEMENTS AND RIGHTS OF ACCESS. Each of the following easements is a covenant running with the land of the Condominium and, notwithstanding any of the other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonably interfere with their proper and intended uses and purposes, and each shall survive the termination of the Condominium.

(a) Utility Services. Easements as may be required for utility services in order to adequately serve the Condominium Property or any Condominium Unit, Limited Common Element or Common Element, including, but not limited to, electricity, telephone facilities, sewer, water, lighting, irrigation, drainage, internet service, television antenna and cable television facilities and any electronic security facilities. However, easements through a Condominium Unit shall be only according to the plans and specifications for the Building containing the Condominium Unit or as the Building is actually constructed or reconstructed, unless approved in writing by the Owner. A Unit Owner shall do nothing within or outside his Condominium Unit that interferes with or impairs the utility services using these easements. The Association or its designee shall have a right of access to each Condominium Unit and the improvements constructed thereon when necessary for the maintenance, repair or replacement of any Common Elements (which include Limited Common Elements) or for making emergency repairs which are necessary to prevent damage to the Common Elements (which include Limited Common Elements) or to another Condominium Unit or Condominium Units; provided, however, such right of access shall not be deemed to be an easement and shall not unreasonably interfere with the Unit Owner's permitted use of the Condominium Unit and, except in the event of an emergency, entry into any Condominium Unit shall be made on reasonable notice to the Unit Owner.

(b) Easement of Support. Every portion of a Condominium Unit contributing to the support of a Building or an adjacent Condominium Unit shall be burdened with an easement of support for the benefit of all Condominium Units in the Building.

(c) Use of Common Elements. The Common Elements shall be, and the same are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the

Unit Owners and residents of the Condominium, and their guests and invitees, for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended.

(d) Encroachments. If any portion of the Common Elements or Limited Common Elements encroaches upon any Condominium Unit; if any Condominium Unit encroaches upon any other Condominium Unit or upon any portion of the Common Elements or Limited Common Elements; or if any encroachment shall hereafter occur as a result of (i) construction or reconstruction of any improvement; (ii) settling or shifting of any improvements; (iii) any addition, alteration or repair to the Common Elements or Limited Common Elements made by or with the consent of the Association; or (iv) any repair or restoration of any improvements (or any portion thereof) or any Condominium Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Condominium Unit or the Common Elements or Limited Common Elements, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the improvements shall stand. Such easements shall exist to a distance of not more than three (3) feet, as measured from any common boundary between adjacent Condominium Units and between each Condominium Unit and any adjacent Common Element along a line perpendicular to such boundaries at such points. Any such easement for encroachment shall include an easement for the maintenance and use of encroaching improvements in favor of each of the Unit Owners and their respective designees.

(e) Overhanging Troughs and Gutters. There shall be easements for overhanging troughs or gutters, downspouts and the discharge therefrom of rainwater and the subsequent flow thereof over the Condominium Units and the Condominium Property.

(f) Natural Growth. There shall be easements for over-hanging natural growth of trees and shrubbery over the Condominium Units, the Limited Common Elements and the Common Elements.

(g) Restrictions, Reservations and Easements of Record. The creation of this Condominium is subject to restrictions, reservations and easements which have been placed of record prior to the formation and filing hereof.

(h) Pedestrian and Vehicular Traffic. Easements for pedestrian traffic over, through and across sidewalks, driveways, paths, lanes and walks as the same may from time to time exist upon the Common Elements and the Limited Common Elements, including but not limited to the driveways; and for pedestrian and vehicular traffic and parking over, through, across and upon such portions of the Common Elements and the Limited Common Elements as may from time to time be paved and intended for such purposes, including but not limited to all driveways, same being for the use and benefit of the Association and the Unit Owners and residents of the Condominium and their employees, guests and invitees.

(i) Developer's Ingress and Egress and Utility Purposes. In addition to the foregoing, the Developer for itself, its successors, assigns, agents and employees, including, without limitation, any person residing within the Property described in Exhibit "A", their guests and invitees, their mortgagees, successors and assigns, expressly reserves an easement for

ingress and egress and utility purposes over and across all roads existing from time to time within the property described in Exhibit “A”, if such property is submitted to the condominium form of ownership.

(j) Grant of Additional Easements; Modifications and Termination. The Association shall have the right to (i) grant and declare additional easements over, upon, under and/or across the Common Elements in favor of the Unit Owners and residents of the Condominium and their guests and invitees, or in favor of any other person, entity, public or quasi-public authority or utility company, or (ii) modify, relocate, abandon or terminate existing easements within or outside of the Condominium in favor of the Association and/or the Unit Owners and residents of the Condominium and their guest and invitees or in favor of any person, entity, public or quasi-public authority or utility company, as the Association may deem desirable for the proper operation and maintenance of the Condominium or any portion thereof, or for the health, safety or welfare of the Unit Owners, or for any other reason or purpose. So long as such additional easements or the modification, relocation or abandonment of existing easements will not unreasonably and adversely interfere with the use of Condominium Units for dwelling purposes, no joinder of any Unit Owner or any mortgagee of any Condominium Unit shall be required or, if same would unreasonably and adversely interfere with the use of any Condominium Unit for dwelling purposes, only the joinder of the Unit Owners and mortgagees of Condominium Units so affected shall be required. To the extent required, all Unit Owners hereby irrevocably appoint the Association as their attorney-in-fact for the foregoing purposes.

(k) Maintenance of Improvements. The Developer for itself and the Association reserves easements over the Condominium Property for ingress and egress, or for such other purposes as shall not unreasonably interfere with the customary use of the Condominium Property, including construction, maintenance, operation and the like over the Condominium Property.

(l) Sales and Leasing Activity. For as long as the Developer retains any ownership interest in any portion of Bella Capri, the Developer, its designees, successors and assigns, shall have the right to use any such Units and parts of the Common Areas or Condominium Property for guest accommodations, model apartments and sales, leasing and construction offices, to show model Units and the Common Areas to prospective purchasers and tenants of Units and/or “units” or “improvements” intended to be constructed within Bella Capri, and/or to erect on the Condominium Property and Condominium Property signs and other promotional material to advertise Units or other portions of Bella Capri for sale or lease.

(m) Warranty. For as long as Developer remains liable under any warranty, whether statutory, express or implied, for act or omission of Developer in the development, construction, sale and marketing of the Condominium, then Developer and its contractors, agents and designees shall have the right, in Developer’s sole discretion and from time to time and without requiring prior approval of the Association and/or any Unit Owner (provided, however, that absent an emergency situation, Developer shall provide reasonable advance notice), to enter the Condominium Property, including the Units, Common Elements and Limited Common Elements, for the purpose of inspecting, testing and surveying same to determine the need for repairs, improvements and/or replacements, and effecting same, so that Developer can fulfill any of its warranty obligations. **Nothing herein shall be deemed or construed as the Developer**



**making or offering any warranty, all of which are disclaimed (except to the extent same may not be) as set forth in Section 24(c) below.**

(n) Exterior Building Maintenance. An easement is hereby reserved on, through and across each Unit and all Limited Common Elements appurtenant thereto in order to afford access to the Association (and its contractors) to perform roof repairs and/or replacements, repair, replace, maintain and/or alter rooftop mechanical equipment, to stage window washing equipment and to perform window washing and/or any other exterior maintenance and/or painting of the Building.

7. DEVELOPER'S UNITS AND PRIVILEGES Subject to the terms of Section 19, the Developer is empowered to sell, lease or rent Condominium Units to any person approved by it, unless prohibited by law. The Developer shall have the right to transact on the Condominium Property any business necessary to consummate the sale of Condominium Units, including but not limited to the right to maintain models, sales offices and construction trailers, erect signs, place employees in the office, use the Common Elements and show unsold Condominium Units. In addition to and without limiting the generality of the foregoing, the Developer shall have the right to show the Condominium Units it owns, the Limited Common Elements appurtenant thereto, if any, and the Common Elements to prospective purchasers and tenants, as well as the right to maintain a sales office, and to place and maintain signs and other promotional material on the Condominium Project. The sales office(s), signs and all items pertaining to sales shall not be considered Common Elements and shall remain the property of the Developer. In the event there are unsold Condominium Units, the Developer retains the right to be the Owner thereof, under the same terms and conditions as other Owners, save for this right to sell, rent or lease as contained in this Section.

Moreover, the Developer hereby reserves the right, in its sole and absolute discretion, to alter, relocate, or revise the shoreline and/or boundary line of any lake constructed or located on the Land. Neither Developer nor the Association shall be liable to any Owner or other Unit Owner for any loss or damage arising out of the location or relocation of the boundary and/or shoreline of any lake constructed and Developer reserves the right to alter or change the shoreline of any lake, if constructed without the consent of any Unit Owner.

8. PERCENTAGE OF OWNERSHIP OF COMMON ELEMENTS AND COMMON SURPLUS. The undivided share of the Common Expenses and ownership of the Common Elements and Common Surplus attributable to each Condominium Unit shall be computed upon the following basis:

(a) The Developer has not considered the size of the Unit in apportioning the Common Expenses and in determining the ownership of Common Elements and Common Surplus. Each Unit has an undivided one/twenty-fourth (1/24th) share in the ownership in the Condominium of the Common Elements and the Common Surplus, and in apportioning the Common Expenses.

9. COMMON EXPENSES AND COMMON SURPLUS.

(a) Common Expenses of the Condominium Association, as defined hereinabove, shall be shared by all Unit Owners in accordance with an undivided share in the ownership of the Common Elements and the Common Surplus attributable to each Condominium Unit submitted to condominium ownership, as set forth in Section 8 hereinabove. It is understood that this shall include all expenses in connection with any assessments, insurance and all other expenditures for which the Association shall be responsible.

(b) The Common Surplus shall be owned by Unit Owners in accordance with the provisions set forth in Section 8 hereinabove as they relate to the undivided share in the ownership of the Common Elements and Common Surplus attributable to each Condominium Unit submitted to condominium ownership pursuant to this Declaration.

10. GOVERNING BODY. The affairs of the Condominium shall be conducted by a corporation incorporated pursuant to the Florida Statutes governing corporations not for profit. The name of the corporation to conduct the affairs of the Condominium shall be Bella Capri Condominium Association, Inc., the Articles of Incorporation of which are attached hereto as Exhibit "C" and are made a part hereof as though set out in full herein. The Bylaws of the Association are attached hereto as Exhibit "D" and are made a part hereof as though set out in full herein.

11. MEMBERSHIP IN THE ASSOCIATION.

(a) The Association shall at all times maintain a register setting forth names of the Owners of all of the Condominium Units and in the event of the sale or transfer of any Condominium Unit to a third party, the Purchaser or transferee shall notify the Association in writing of his interest in such Condominium Unit together with such recording information as shall be pertinent to identify the instrument by which Purchaser or Transferee has acquired his interest in the Condominium Unit. Further, the Owner of each Condominium Unit shall at all times notify the Association of the names of the parties holding any mortgage or mortgages on any Condominium Unit, the amount of such mortgage or mortgages and the recording information which shall be pertinent to identify the mortgage or mortgages. The holder of any mortgage or mortgages upon any Condominium Unit may, if he or it so desires, notify the Association of the existence of any mortgage or mortgages held by such party on any Condominium Unit and, upon receipt of such notice, the Association shall register in its records all pertinent information pertaining to the same.

(b) The Developer and all persons hereinafter owning an interest in the Condominium Units, whose interest is evidenced by the recordation of a proper instrument in the Public Records of Pinellas County, Florida, shall automatically be members of the Association and such membership shall automatically terminate when such persons have divested themselves of such interest.

(c) An Owner or Owners of a single Condominium Unit shall collectively be entitled to one (1) vote for that Condominium Unit, which vote shall be cast by the voting member. If any Condominium Unit is owned by more than one person, other than a husband and

wife, one of the Owners of such Condominium Unit shall be designated, by a duly sworn certificate signed by all of the record Owners of the Condominium Unit and filed with the Secretary of the Association, as the voting member for that Condominium Unit. Failure by all Owners of a Condominium Unit (except in the case of a husband and wife who are the sole owners of the Condominium Unit) to file such a sworn certificate with the Secretary prior to a members' meeting shall result in depriving such Owners of a vote at such meeting. In the case of a corporation, partnership or joint venture, the officer, director, agent or partner entitled to vote shall be designated by a certificate signed by the appropriate officer, director or partner of such entity and filed with the Secretary of the Association. In the case a husband and wife are the sole owners of the Condominium Unit, they need not designate the voting member and either of them appearing at a meeting of the members may, if there is no objection from the other, cast the voting interest for that Condominium Unit. The appearance at any meeting of any co-owner of a Condominium Unit shall constitute that Condominium Unit's presence for the purpose of establishing a quorum, whether or not the co-owner in attendance is authorized to vote. Whenever a particular numerical or percentage vote is called for or provided for in this Declaration or the Articles or Bylaws, unless the particular provision describing the vote required shall specifically require to the contrary, the vote required shall be that percentage or fraction of the total number of voting interest of the Unit Owners present and voting or, if the provision involved so requires, that percentage or fraction of the total number of votes entitled to be voted on the matter. Unless a particular provision shall require otherwise, a majority vote of the number of voting interests of Unit Owners present and voting and entitled to vote on any matter shall be controlling, provided a quorum is present. A person or entity owning an interest in more than one (1) Condominium Unit may be designated as a voting member for each Condominium Unit which he or it owns and may cast one (1) vote for each such Condominium Unit.

(d) There shall be one (1) voting member for each Condominium Unit submitted to condominium ownership pursuant to this Declaration and amendments hereto.

(e) All the affairs, policies, regulations and property of the Association shall be controlled and governed by the Board of Directors of the Association, consisting of not less than three (3) and not more than seven (7) voting Members who are to be elected annually by the voting members; provided, at all times there may only be an odd number of Directors on the Board.

(f) Subsequent to the filing of this Declaration, the Association, when authorized by a vote of two-thirds (2/3) of the total vote of the members of said Association, may purchase and/or acquire and enter into agreements, from time to time, whereby it acquires leaseholds, memberships and other possessory or use interests in lands or facilities, including, but not limited to, country clubs and other recreational facilities, whether or not contiguous to the lands of the Condominium intended to provide for the enjoyment, recreation and other use or benefit of the Unit Owners. The expense of ownership, rental fees, operations, replacements and other undertakings in connection therewith shall be Common Expenses, together with all other expenses and costs herein or by law defined as Common Expenses.

12. AMENDMENT OF DECLARATION.

(a) This Declaration may be amended by affirmative vote of at least 66 2/3% of the Unit Owners at a meeting duly called for such purpose pursuant to the Bylaws; provided, however, that no amendment shall be made which shall in any manner impair the security of an Institutional Mortgagee having a mortgage or other lien against any one or more Condominium Units or Condominium Parcels, or any other record Unit Owners of liens thereon. However, if such amendment is only for the purpose to correct an error or omission in this Declaration or in other documentation required by law to establish the condominium form of Unit Ownership, then such amendment shall nevertheless be effective when duly passed by an affirmative vote of fifty-one (51%) percent of the Unit Owners of the Association present or represented by written proxy in accordance with the Bylaws and recorded among the Public Records of Pinellas County; provided, however, that the property rights of the Unit Owners are not materially and/or adversely affected by such amendment.

(b) Unless otherwise specified to the contrary in this Declaration, no amendment shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to any Unit, or change the percentage by which the Owner of a Unit shares the Common Expenses and owns the Common Elements and Common Surplus (any such change or alteration being a "Material Amendment"), unless the record Owner(s) thereof, and all record owners of mortgages or other liens thereon, shall join in the execution of the amendment and the amendment is otherwise approved by in excess of 66 2/3% or more of the voting interests of Unit Owners. The acquisition of property by the Association, material alterations or substantial additions to such property or the Common Elements by the Association and installation, replacement, operation, repair and maintenance of approved hurricane shutters, if in accordance with the provisions of this Declaration, shall not be deemed to constitute a material alteration or modification of the appurtenances of the Units, and accordingly, shall not constitute a Material Amendment. Moreover, no amendment may be made to this Declaration which would affect the Surface Water Management System and the Storm Water Management System without the prior written approval of the Southwest Florida Water Management District.

(c) Notwithstanding anything herein contained to the contrary, during the time the Developer has the right to elect a majority of the Board of Directors of the Association, the Declaration, the Articles of Incorporation or the By-Laws of the Association may be amended by the Developer alone, without requiring the consent of any other party, to effect any change whatsoever, except for an amendment: (i) to permit time-share estates (which must be approved, by all Unit Owners and mortgagees on Units); or (ii) to effect a Material Amendment which must be approved in the manner set forth in Section 12(b) above. 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, without the consent of the Developer in each instance.

(d) An amendment, other than amendments made by the Developer alone pursuant to the Act or this Declaration, shall be evidenced by a certificate of the Association, executed either by the President of the Association or a majority of the members of the Board of Directors which shall include recording data identifying the Declaration and shall be executed with the same formalities required for the execution of a deed. An amendment of the

Declaration is effective when the applicable certificate and amendment are properly recorded in the public records of the County. No provision of this Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of this Declaration shall contain the full text of the provision to be amended; new words shall be inserted in the text and underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicated to words added or deleted but, instead a notation must be inserted immediately preceding the proposed amendment in substantially the following language: (“Substantial rewording of the Declaration. See provision \_\_\_ for present text.”).

(e) If it shall appear through scrivener’s error, that a Condominium Unit has not been designated as owning an appropriate undivided share of the Common Elements or does not bear an appropriate share of the Common Expenses or that all the Common Expenses or interest in the Common Surplus or all of the Common Elements in the Condominium have not been distributed in the Declaration, such that the sum total of the shares of Common Elements which have been distributed or the sum total of the shares of the Common Expenses or Unit Ownership of Common Surplus fail to equal one hundred (100%) percent (or if it shall appear that, through such error, more than one hundred (100%) percent of Common Elements or Common Expenses or Unit Ownership of the Common Surplus shall have been distributed) such error may be corrected by the filing of an amendment to this Declaration approved by the Board or fifty-one percent (51%) of the Unit Owners. The amendment to the Declaration shall be evidenced by a certificate of the Association which shall include the recording data identifying the Declaration and shall be executed in the form required for the execution of a deed and recorded in the Public Records of Pinellas County, Florida.

(f) Notwithstanding any provision of this Declaration to the contrary, mortgagee consent shall not be required for any amendment to this Declaration unless such amendment materially affects the rights and interests of any mortgagee, or is otherwise required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, and no mortgagee shall unreasonably withhold its consent to any proposed amendment. Except for amendments to this Declaration changing the configuration or size of any Condominium Unit in any material fashion, materially altering or modifying the appurtenances to any Condominium Unit, or changing the proportion or percentage by which the Unit Owner of any Condominium Unit shares the common expenses and owns any common surplus and except for any amendments to this Declaration permitting time-share estates, amendment to this Declaration shall be presumed not to materially affect the rights or interests of mortgagees. In the event that mortgagee(s) consent to any amendment to this Declaration is provided other than by a properly recorded joinder, such consent shall be evidenced by an affidavit of an officer of the Association recorded in the Public Records of Pinellas, Florida. This Section may not be amended without the consent of the Developer.

(g) Any amendment which would materially adversely affect the surface water management system, must have the prior written approval of the Southwest Florida Water Management District.

13. TYPE OF OWNERSHIP. Ownership of each Condominium Parcel, which shall include the Condominium Unit and the undivided share in the Common Elements herein specified, shall be evidenced by Special Warranty Deed from the Developer conveying fee simple title to the Condominium Parcel, and such change shall not be deemed an amendment changing the configuration or size of a Condominium Unit.

14. ASSESSMENTS, LIABILITY, LIEN, INTEREST, COLLECTION.

(a) The Association, through its Board of Directors, shall have the power to make and collect assessments, special assessments and such other assessments as are provided for by the Condominium Act, this Declaration and/or the Bylaws.

(b) Common Expenses shall include but not be limited to costs and expenses incurred or expended by the Association for operation, maintenance and management of the Condominium Property for the maintenance, repair and/or replacement of roads, or other improvements benefiting the Condominium Property or any part thereof, property taxes and assessments against the Condominium Property (until such time as any of such taxes and assessments are made against the Condominium Parcels individually and thereafter only as to such taxes or assessments, if any, as may be assessed against the Condominium Property as a whole), insurance premiums as described in Section 17, legal and accounting fees, management fees and operating expenses of the Condominium Property and the Association; maintenance, repairs and replacement (but only as to the Common Elements and Limited Common Elements, except for emergency repairs or replacements to individual Condominium Units deemed necessary to protect the Common Elements and if properly chargeable to the individual Condominium Unit concerned the Association may nevertheless thereafter charge such individual Unit Owner concerned), charges for utility and water used in common for the benefit of the Condominium or if not separately metered for each unit and any bulk metered or bulk calculated utility services rendered to the Condominium Property or the Condominium Units for their benefit, cleaning and janitorial services for the Common Elements and Limited Common Elements, and liability incurred by the Association in and about the enforcement of its rights and duties against the members or others, and the creation of reasonable contingency or reserve requirements for the protection of the members and the Condominium Property (i.e., including but not limited to reserves for roof replacement, building painting and pavement resurfacing if such reserves are not waived), and all other expenses declared by the Board of Directors of the Association to be Common Expenses from time to time, and any and all other sums due from the Association under any lease, contract or undertaking for recreational facilities.

(c) The Association shall estimate from time to time the amount of Common Expenses it expects to incur and the period of time involved therein and shall assess sufficient monies from Unit Owners to meet this estimate. Assessments for Common Expenses shall be borne by Unit Owners in the portions or shares set forth in Sections 8 and 9 hereinabove. Assessments shall be payable monthly or in such other installments and at such other times as may be fixed by the Board of Directors.

(d) Should the Association through its Board of Directors at any time determine that the assessments made are not sufficient to pay the Common Expenses or, in the

event of emergencies, the Board of Directors shall have the authority to levy and collect additional assessments to meet such needs of the Association.

(e) All notices of assessments from the Association to the Unit Owners shall designate when they are due and payable.

(f) The Association has a lien on each Condominium Unit for any unpaid assessments, regular or special, made hereunder and costs incurred in collecting same, including reasonable attorneys' fees and interest (as described in Section 14(g) below), which are incident to the collection of the assessment with respect to said Condominium Unit or enforcement of the lien. The lien is effective from and shall relate back to the recording of this Declaration of Condominium or an amendment hereto creating the Unit. However, as to first mortgages of record, the lien is effective from and after recording of a claim of lien. The lien shall be recorded in the Public Records of Pinellas County and provide for the description of the Condominium Unit, the name of the record owner, the name and address of the Association, the amount due and the due dates.

(g) In addition to the lien rights set forth above, the Association shall be entitled to collect interest at a rate determined by the Association which rate shall not exceed the highest rate allowed by law from the due date until the date of payment of any assessment, regular or special, made hereunder which is not paid within ten (10) days of the due date of any such assessment. Also, the Association may charge an administrative late fee in addition to such interest, in an amount not to exceed the greater of Twenty-Five and No/100 Dollars (\$25.00) or five percent (5%) of each installment of the assessment for each delinquent installment that the payment is late. Any payment received by the Association shall be applied first to any interest accrued by the Association, then to any administrative late fee, then to any costs and reasonable attorneys' fees incurred in collection, and then to the delinquent assessment.

(h) A Unit Owner, regardless of how his or her title has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure is liable for all assessments which come due while he or she is the Unit Owner. Additionally, a Unit Owner is jointly and severally liable with the previous Owner for all unpaid assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the Owner may have to recover from the previous Owner the amounts paid by the Owner. The liability of a first mortgagee or its successors or assignees who acquire title to a Unit by foreclosure or by deed in lieu of foreclosure for the unpaid assessments that became due prior to the mortgagee's acquisition of title is limited to the maximum amount that the condominium association can collect under Chapter 718, *Florida Statutes*, as amended from time to time.

The person acquiring title shall pay the amount owed to the Association within thirty (30) days after transfer of title. Failure to pay the full amount when due shall entitle the Association to record a claim of lien against the Condominium Parcel and proceed in the same manner as provided in this Section for the collection of unpaid assessments.

(i) The Association may bring an action in its name to foreclose a lien for assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien.

(j) The Developer shall not be liable for the payment of assessments on Condominium Units that it owns during the period that the Developer has guaranteed the assessment, since the Developer guarantees to each Unit Owner that assessment of Common Expenses of the Condominium imposed upon each Unit Owner other than the Developer will not exceed the following amounts for each Unit for the stated periods:

| <b>Monthly Amount</b><br>(Period beginning upon recording<br>this Declaration through remainder<br>of the first fiscal year) | <b>Monthly Amount</b><br>(for the period from the 1st day<br>of the 2nd fiscal year,<br>through end of guarantee period) |
|--|--|
| \$518.33   | \$596.07   |

The guarantee period commences with the recording of this Declaration and continues until the expiration of six (6) months from the date of recording this Declaration or turnover of control of the Association, which-ever occurs earlier ("Initial Termination Date"). The Association's fiscal year shall be from January 1 through December 31, unless the Board determines otherwise. During such period, the Developer will pay to the Association any amount of Common Expenses incurred during that period which exceeds the guaranteed level of assessments against other Unit Owners. After the Initial Termination Date, the Developer will have the option of extending the guarantee for one or more additional six-month periods by written notice to the Board, although the monthly guarantee amount shall be the same as the last level set forth above.

15. MAINTENANCE. The responsibility for the maintenance of the Condominium Property as it may apply hereafter, shall be as follows:

(a) By the Association. The Association shall be responsible for the maintenance, repair or replacement of the following:

(1) All Common Elements.

(2) All portions of the Condominium Units (except interior wall surfaces) contributing to the support of the Building, which portions shall include, but not be limited to, the outside walls of the Building, load bearing columns, the roofs of the Buildings and the skylights, if any, on the Condominium Property.

(3) All Common Elements including but not limited to conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portions of the Condominium Unit contributing to the support of the Building or within interior boundary walls and all such facilities contained within a Condominium Unit which service part or parts of the Condominium other than the Condominium Unit within which it is contained.

(4) All Limited Common Elements except as described in subparagraph 15(b) or Section 3(d) of this Declaration.

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



(6) The Surface Water Management System and Storm Water Management System, whether located on the Condominium Property or servicing the Condominium Property, permitted by the Southwest Florida Water Management District, including all lakes, retention areas, water management areas, ditches, culverts, structures and related appurtenances.

(b) By the Unit Owner. Each Unit Owner shall operate, maintain, repair and replace, at the Unit Owner's expense:

(1) All portions of the Condominium Unit, if any, except the portions to be maintained, repaired and replaced by the Association. Included within the responsibility of the Unit Owner shall be windows, screens on windows and doors on the exterior of his Condominium Unit, and framing for same. All such maintenance, repairs and replacements shall be done without disturbing the rights of other Unit Owners.

(2) The air conditioning and heating systems exclusively serving the Unit Owner's Condominium Unit, whether inside or outside of his Condominium Unit.

(3) Within the Owner's Condominium Unit, all cabinets, electrical fixtures, appliances, water heaters, carpeting and other floor coverings, sinks, fans, stoves, refrigerators, washers, if any, dryers, if any, disposals, if any, compactors, if any, or other appliances or equipment, including any fixtures and/or their connections required to provide water, light, power, telephone, television transmission, sewage and sanitary service to the Condominium Unit, as well as all personal property of the Unit Owner.

All property to be maintained, repaired and/or replaced by a Unit Owner shall be maintained at all times in a first class condition and in good working order, if same affects the exterior appearance of the Condominium, so as to preserve a well-kept appearance throughout the Condominium, and no such maintenance repair or replacement shall be performed in a manner which changes or alters the exterior appearance of the Condominium from its original appearance or condition without the prior written consent of the Association. All property to be maintained, repaired and/or replaced by a Unit Owner which is inside of the Unit Owner's Condominium Unit and which does not affect the exterior appearance of the Condominium shall be maintained at all times in a condition which does not and will not adversely affect any other Unit Owner or any portion of the Condominium Property.

No Unit Owner shall operate, maintain, repair or replace any portion of the Common Elements or Common Facilities to be operated, maintained, repaired and/or replaced by the Association without first obtaining written approval from the Association. Each Unit Owner shall promptly report to the Association any defects or need for repairs, maintenance or replacements, the responsibility for which is that of the Association.

Notwithstanding anything herein to the contrary, the cost and expense of any maintenance, repair or replacement of the Condominium Property necessitated by the negligence, misuse or neglect of a specific Unit Owner(s) shall be the sole responsibility of said Unit Owner(s).

(c) At the option of the Association:

The Association may, at its own expense:

(1) Use and expend the assessments collected, to maintain, care for and preserve the Condominium Property, except those portions thereof which are expressly required to be maintained, cared for and preserved by the Unit Owners and except that assessments for reserves shall be used for the purposes for which they are reserved unless their use for other purposes is approved in advance by a vote of the majority of the voting interest of the Association at a duly called meeting;

(2) Purchase the necessary equipment and tools required in the maintenance, care and preservation referred to above;

(3) Enter into and upon the Condominium Units when necessary and with as little inconvenience to the Owners as possible in connection with the maintenance, repair or replacement of any Common Elements including any Limited Common Elements or for making emergency repairs which are necessary to prevent damage to the Common Elements including any Limited Common Elements or to another Condominium Unit or Condominium Units. Whenever it is necessary to enter any Condominium Unit for the purpose of performing any such maintenance, repair and replacement, the Unit Owner shall permit the Association or persons authorized by it to enter the Condominium Unit for such purposes, provided that such entry may be made only at reasonable times and with reasonable advance notice, except that in the case of an emergency, no advance notice will be required. To facilitate entry in the event of any emergency, the Owner of each Condominium Unit, if required by the Association, shall deposit a key to his Condominium Unit with the Board of Directors;

(4) Insure and keep insured said Condominium Property in the manner set forth in the Declaration against loss from fire and/or other casualty, and Unit Owners against public liability and to purchase such other insurance as the Board of Directors may deem advisable;

(5) Collect delinquent assessments by suit or otherwise, abate nuisances and enjoin or seek damages from the Unit Owners for violation of the Bylaws, the Rules and Regulations, if any, and the terms and conditions of this Declaration;

(6) Employ workmen, janitors and gardeners and purchase supplies and equipment, to enter into contracts in connection with any of the foregoing items or for other services deemed advisable and to delegate to such contractor or

manager such powers as may be necessary in connection with the operation of the Buildings and the Condominium Property;

(7) Pay any charge, assessment or tax imposed by any improvement district or special taxing district; and

(8) Perform any other tasks or functions permitted pursuant to the Articles of Incorporation.

16. ENFORCEMENT OF MAINTENANCE. In the event a Unit Owner fails to operate, maintain or repair his Condominium Unit, as required in Section 15 above, the Association or any other Unit Owner shall have the right to petition to the Division of Florida Land Sales, Condominiums and Mobile Homes for mandatory non-binding arbitration, as more specifically set forth in the Arbitration Rules of Procedure promulgated by the Division.

17. INSURANCE. The insurance (other than title 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; named insured; custody and payment of policies. The Association shall use its reasonable efforts to obtain and maintain adequate insurance to protect the Association, the Common Elements, Limited Common Elements and the respective Condominium Units for the full replacement or insurable value thereof. The named insured shall be the Association individually and as an agent for the Unit Owners covered by the policy without naming them and their mortgagees to the extent of their respective interests. Unit Owners may obtain insurance coverage at their own expense upon their personal property and for their personal liability. All Association policies shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (as described in Section 17(n)) (if appointed). All policies shall provide thirty (30) days' notice of cancellation to the Association. The above insurance provision specifically does not include coverage on personal property coverage for floor coverings, wall coverings and ceiling coverings of each Condominium Unit or for personal liability or living expenses of Unit Owners. Each Unit Owner should obtain insurance coverage at his own expense to protect his Condominium Unit, furnishings, including floor coverings, wall coverings or ceiling coverings, furniture, personal property, personal liability, and living expenses and all electrical fixtures, appliances, air conditioner, heating equipment, water heater and built-in cabinets located within the Condominium Unit. The insurance coverage acquired by the Association does not protect a Unit Owner against liability, personal injury or damage occurring within his Condominium Unit; it does not cover loss or damage to the Unit and its contents resulting from fire, theft, loss, vandalism, wind, water, rain, hurricanes or other casualty, and does not include floor coverings, wall coverings, ceiling coverings, living expenses and all electrical fixtures, appliances, air conditioner, heating equipment, water heater and built-in cabinets located within the Condominium Unit. It shall be the obligation of the individual Unit Owner to purchase and pay for any insurance covering such risks.

(b) Coverage.

(1) Casualty insurance coverage shall afford protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement and such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the Buildings on the Condominium Property.

(2) Public liability coverage in such amounts and with such coverage as shall be required by the Board of Directors of the Association.

(3) Workers' compensation coverage to meet legal requirements.

(4) Flood insurance coverage to meet legal requirements.

(5) Fidelity Bonds. The Association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this Section, the term "persons who control or disperse funds to the Association" includes, but is not limited to, those individuals authorized to sign checks and the president, secretary and the treasurer of the Association. The Association shall bear the cost of bonding.

(6) Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

(c) Premiums. Premiums upon such insurance policies purchased by the Association shall be a Common Expense.

(d) Shares 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 (if appointed) as agent for the Association, the Unit Owners and their mortgagees. The duty of the Insurance Trustee shall be to receive the insurance proceeds and other funds that are paid to it and hold the same in trust for the purposes stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares:

(1) Unit Owners. An undivided share for each Unit Owner, that share being the same as the undivided share in the Common Elements appurtenant to his Condominium Unit.

(2) Mortgagees. In the event a mortgagee endorsement of an insurance policy has been issued as to a Condominium Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear. Any Institutional Mortgagee or person holding a mortgage on a Condominium Unit shall be entitled to request and receive a mortgagee endorsement to the hazard insurance carried by the Association if such mortgagee

endorsement is reasonably available, and a copy of the policy. No mortgagee shall have any right to 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 distributions of proceeds made to the Unit Owner and mortgagee, which distributions shall be made by check payable jointly to the Unit Owner and mortgagee.

(e) Distribution of proceeds. Proceeds of insurance policies received by the Insurance Trustee (if appointed) shall be distributed to or for the benefit of the beneficial owners in the manner hereafter provided.

(f) Association as agent. The Association is irrevocably appointed agent for each Unit Owner and for each holder of a mortgage or other lien upon a Condominium Unit and for each owner of any other interest in the Condominium Property, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

(g) Determination whether to reconstruct and repair. Whether or not Condominium Property damaged by casualty shall be reconstructed and repaired shall be determined in the following manner:

(1) Lesser Damage. If two-thirds (2/3) or more of the Condominium Units are tenantable after the casualty (as determined by the Board of Directors of the Association), the damaged Condominium Property shall be reconstructed and repaired.

(2) Major Damage. If less than two thirds (2/3) of the Condominium Units are tenantable after the casualty (as determined by the Board of Directors of the Association), whether the damaged Property will be reconstructed and repaired or the Condominium terminated shall be determined at a meeting of Unit Owners which shall be held within sixty (60) days from the casualty. Notice of such meeting shall be properly given to all such Unit Owners, and a majority of the voting interests shall constitute a quorum for such meeting. If the reconstruction and repair is approved at the meeting by a majority of the Unit Owners present at the meeting, the damaged Condominium Property will be reconstructed and repaired; but if not so approved, the Condominium shall be terminated in the manner provided in this Declaration for termination by agreement, except that no further consent or vote of Unit Owners or mortgagees shall be required for such termination, it being conclusively presumed in such instance that the required number of Unit Owners and mortgagees have consented to such termination.

(3) Binding Decision. The Board of Directors of the Association's decision as to whether or not less than two-thirds (2/3) of the Condominium Units are tenantable after a casualty shall be binding upon all Unit Owners.

(h) Responsibility for reconstruction and repair. The responsibility for reconstruction and repair after casualty shall be the same as for maintenance and repair of the Condominium Property as provided herein.

(i) Plans and Specifications. Any reconstruction and repair must be substantially in accordance with the plans and specifications for the original improvements or, if not, then according to plans and specifications approved by the Board of Directors of the Association and two-thirds (2/3) of the voting interests.

(j) Assessments, determination of sufficiency of funds. If the proceeds of insurance are not sufficient to defray the costs of construction and repair for which the Association is responsible, assessments shall be made by the Association against all Unit Owners in sufficient amounts to provide funds for the payment of those costs previously incurred or to be incurred. The assessments shall be made as for a Common Expense.

(k) Disbursement of Funds. The funds held by the Insurance Trustee (if appointed) after a casualty, which will consist of proceeds of insurance and the sums collected from assessments against Unit Owners on account of the casualty, shall be disbursed in the following manner and order:

(1) Termination of the Condominium. If the Condominium is terminated by failure of the Unit Owners to approve reconstruction and repair after Major Damage, the insurance funds shall be remitted jointly to the Unit Owners and their mortgagees of the damaged Condominium Units to compensate them for the cost of reconstruction and repair. The Unit Owners and their mortgagees of the damaged Condominium Unit shall receive a share equal to the estimated cost of reconstruction and repair of the damage in each Condominium Unit as it bears to the total of these costs in all damaged Condominium Units; provided, however, that no Unit Owner and his mortgagee shall be paid an amount in excess of the estimated cost of repair of his Condominium Unit. The remaining funds shall be owned by the Unit Owners and their mortgagees as their interests appear, in the undivided shares in which they own the Common Elements prior to the termination, and shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being made payable jointly to them.

(2) Reconstruction and repair of damage. If the damaged property is to be reconstructed and repaired, the funds shall be disbursed in the following manner:

a. If the estimated costs of reconstruction and repair which are the responsibility of the Association do not exceed Ten Thousand Dollars (\$10,000.00), the funds shall be disbursed by the Insurance Trustee (if appointed) upon the order of the Association in payment of these costs.

b. If the estimated costs of reconstruction and repair which are the responsibility of the Association exceed Ten Thousand Dollars

(\$10,000.00), the funds shall be disbursed by the Insurance Trustee (if appointed) in payment of these costs in the manner required by the Board of Directors of the Association, which shall supervise the work and approve all disbursements as being due and properly payable.

c. If there is a balance of insurance proceeds after payment of the cost of reconstruction and repair which are the responsibility of the Association, this balance shall be distributed to owners of damaged Condominium Units who have responsibility for reconstruction and repair of their Condominium Units. The distribution shall be in the shares that the estimated cost of reconstruction and repair of this damage in each damaged Condominium Unit bears to the total of these costs in all damaged Condominium Units; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated cost of repair of his Condominium Unit. If there is a mortgage upon a Condominium Unit, the distribution shall be paid to the Unit Owner and the mortgagee jointly and they may use the proceeds as they may determine.

(l) Benefit of mortgagees. The provisions in this section are for the benefit of mortgagees of Condominium Units as well as Unit Owners, and may be enforced by any such mortgagee. Notwithstanding the foregoing, the Association shall not be responsible for its failure to make a payment jointly to the Unit Owners and the mortgagee if the mortgagee has not previously notified the Association in writing that it has a mortgage on a Condominium Unit.

(m) Policy Copies. A copy of each insurance policy in effect shall be available for inspection by the Unit Owners at reasonable times.

(n) Insurance Trustee. The Board of Directors of the Association shall have the option in its discretion of appointing an Insurance Trustee hereunder. If the Association fails or elects not to appoint such Insurance Trustee, the Association will perform directly all obligations imposed upon such Insurance Trustee by this Declaration. Fees and expenses of any Insurance Trustee are Common Expenses. The Insurance Trustee, if so appointed, shall be a bank or trust company in Florida, with trust powers, with its principal place of business in the State of Florida. The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies, nor the failure to collect any insurance proceeds.

## 18. CONDEMNATION AND EMINENT DOMAIN.

(a) The taking of any Condominium Property by condemnation or eminent domain proceedings shall be deemed to be a casualty, and the awards for the taking shall be deemed to be proceeds from insurance on account of casualty and shall be deposited with an Insurance Trustee (if appointed). Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with an Insurance Trustee (if appointed) and, in the event of a failure to do so, in the discretion of the Association, the Association may bring an action against a defaulting Unit Owner in the amount of his award, or the amount of that award shall be set off against the sums hereafter made payable to that Unit Owner.

(b) In the event of any condemnation or eminent domain proceedings, a meeting of the members of the Association shall be called within sixty (60) days after the taking of any Condominium Property by condemnation or eminent domain proceedings is final to determine whether the Condominium will be terminated. Termination of the Condominium shall be effected as provided in Section 35 of this Declaration.

(c) If the Condominium is terminated after condemnation or eminent domain proceedings, the proceeds of the awards and special assessments will be deemed to be Condominium Property and shall be owned and distributed in the manner provided for insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation or eminent domain proceedings, the size of the Condominium will be reduced, the Unit Owners of condemned or taken Condominium Units will receive their pro rata share of the condemnation award applicable to said Condominium Units, and the property damaged by the taking will be made usable in the manner provided below. The proceeds of the awards and special assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds by the Insurance Trustee (if appointed) after a casualty.

(d) If the taking reduces the size of a Condominium Unit and the remaining portion of the Condominium Unit can be made tenantable, the award for the taking of a portion of the Condominium Unit shall be used for the following purposes in the order stated as the following changes shall be effected in the Condominium:

(1) The Condominium Unit shall be made tenantable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be paid by the Owner of the Condominium Unit.

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

(e) If the taking is of the entire Condominium Unit or so reduces the size of a Condominium Unit that it cannot be made tenantable, the award for the taking of the Condominium Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Condominium:

(1) The award shall be paid jointly to all Unit Owners and the mortgagees of Condominium Units not tenantable and in an amount equal to the market value of the Condominium Unit immediately prior to the taking and with credit being given for payments repairing and replacing the Common Elements.

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



(3) The shares in the Common Elements appurtenant to the Condominium Units that continue as part of the Condominium shall be adjusted to distribute the ownership of the Common Elements among the reduced number of Unit Owners. This shall be done by restating the shares of continuing Unit Owners in the Common Elements as elsewhere provided in the Declaration.

(4) If the amount of the award for the taking is not sufficient to pay the market value of a condemned or taken Condominium Unit to the Unit Owner and to condition the remaining portion of the Condominium Unit for use as a part of the Common Elements, the additional funds required for those purposes shall be raised by assessments against all of the Unit Owners who will continue as owners of Condominium Units after the changes in the Condominium effected by the taking. The assessments shall be made in proportion to the shares of those Unit Owners in the Common Elements after the changes effected by the taking.

(5) If the market value of a Condominium Unit prior to the taking cannot be determined by agreement between the Unit Owner and mortgagees of the Condominium Unit and the Association within thirty (30) days after notice by either party, the value shall be determined by one MAI appraiser mutually agreed upon by the Unit Owner, mortgagees and the Association or, if the parties are unable to agree as to an appraiser, the value shall be determined as the average of three (3) appraisals by three (3) such appraisers, one (1) of whom shall be selected by the Association, one by the Unit Owner and one by the appraiser so selected. The cost of such appraisal or appraisals shall be a Common Expense of the Association.

(f) Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in the manner approved by the Board of Directors; provided, that if the cost of the work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner elsewhere required for further improvement of the Common Elements. The balance of the awards for the taking of the Common Elements, if any, shall be distributed to the Unit Owners in the share in which they own the Common Elements after adjustment of these shares on account of the condemnation or eminent domain proceedings. If there is a mortgage on a Condominium Unit, the distribution shall be paid jointly to the Owner and the mortgagee(s) of the Condominium Unit.

(g) The changes in Condominium Units, in the Common Elements and in the ownership of the Common Elements that are effected by condemnation shall be evidenced by an amendment of this Declaration of Condominium that need be approved only by the Board of Directors of the Association.

19. MAINTENANCE OF COMMUNITY INTEREST. In order to maintain a community of congenial owners who are financially responsible and thus protect the value of the Units, the transfer leasing and rentals of Units by any Unit Owner other than the Developer shall be subject to the following provisions so long as the Condominium exists, which provisions each Unit Owner covenants to observe:

(a) Conveyances, Sales and Transfers. There are no restrictions on conveyances, sales or other transfers of Condominium Units in this Condominium, except as set forth below:

(i) Any Unit Owner who decides to sell, market or list their Unit within one (1) year from the settlement date with the Developer, shall first offer to the Developer the right to repurchase the Unit at the Purchase Price paid by the Unit Owner to the Developer at settlement. Any improvements made to the Unit following the date of settlement shall not be included in the purchase price that the Developer pays to the Unit Owner if the Developer elects to exercise the first right of offer. All notices from Unit Owner and Developer shall be in writing and sent certified mail return receipt requested. The Developer shall have thirty (30) days from the date of receipt of the Unit Owners' notice to elect to exercise the Developer's first right of offer.

(ii) Notwithstanding the provisions of Section 19(a)(i) if the Unit Owner is required to offer their Unit for sale within one (1) year from the date of their settlement with the Developer due to the permanent disability or death of the Unit Owner or change of employment necessitating relocation, then in that event, the Developer's first right of offer shall not apply. If the Unit Owner provides the Developer evidence that they meet the qualifications of this Section 19(a)(ii) the Developer agrees to provide a written waiver to the Unit Owner of its first right of offer.

(iii) In the event that the Unit Owner is a corporation, partnership, limited liability company or other business entity, any transfer of interest in the entity which results in an effective change in control of such entity shall require compliance with this Section.

(iv) Notwithstanding anything to the contrary contained herein, the provisions of this Section shall not apply to any mortgagee of any Unit Owner who acquires title to the Unit.

(b) Leasing Restrictions. No Unit Owner may dispose of a unit or any interest therein by lease without approval of the Association. The Association shall have the power to disapprove leases and reject the application for approval of a lease where a Unit Owner is not current in the payment of assessments unless the Unit Owner brings the assessment payments current. Furthermore, subject to the terms and conditions of this Section, including obtaining the Association's consent as noted above, each Unit Owner shall have the right, subject to any applicable governmental restrictions and licenses, to rent and/or lease his, her or its Unit. No portion of a Unit other than an entire Unit, may be rented. All leases, rentals or occupancy agreements shall be in writing, and shall provide (or be automatically deemed to provide, absent an express statement) that the Association shall have the right to terminate the lease or occupancy upon default by the tenant in observing any of the provisions of the Declaration, the Articles of Incorporation and By-Laws, applicable rules and regulations and Exhibits thereto or other applicable provisions of any agreement, document or instrument governing the Condominium. Only entire Units may be leased or rented, and no Unit Owner may lease or rent or permit the lease or rental of less than the entire Unit at any one time. No individual rooms of units may be rented. Regardless of whether or not expressed in any lease, or occupancy agreement the Unit Owner shall be jointly and severally liable to the Association for the acts and

omissions of his or hers tenant(s) or occupants which constitute a violation of, or non-compliance with, the provisions of the Declaration and of any and all rules and regulations of the Association. This Section shall also apply to subleases and assignments and renewals of leases, but the Developer shall be exempt from this Section except for the need to obtain the approval of the Association. Furthermore, no Unit may be rented more than 3 times a year for a period of less than thirty (30) days, nor shall a Condominium Unit be leased for a period less than the period required in order for the Condominium Property to avoid being classified as a "public lodging establishment" as defined in Florida Chapter 509. No Condominium Unit shall be used or sold on a "time-share" basis. The Association reserves the right to charge a fee not to exceed \$100.00 for review of each proposed lease.

(c) Corporate or Partnership Purchaser or Lessee. The purchaser or lessee of a Condominium Unit may be a corporation or general partnership or limited partnership. A corporate or partnership Unit Owner shall not be permitted to designate nor permit more than three (3) different occupants, and their families, to occupy the Unit within any twelve (12) month period.

20. RESTRAINT UPON SEPARATION AND PARTITION. Any transfer of a Condominium Parcel must include all elements thereof as aforedescribed and appurtenances thereto, whether or not specifically described, including but not limited to the Unit Owner's share in the Common Elements and the Limited Common Elements and his or her Association membership. The shares in the Common Elements appurtenant to a Unit are undivided and no action for partition for the Common Elements shall lie. Further, the undivided share in the Common Elements shall not be separated from the Condominium Unit and the share in the Common Elements appurtenant to a Condominium Unit.

21. USE RESTRICTIONS.

(a) Use Restrictions. In addition to other obligations and duties heretofore set out in this Declaration, every Unit Owner or occupant of a Condominium Unit shall abide by the following use restrictions and any rules and regulations adopted by the Association which are not inconsistent with the provisions set forth herein or the Exhibits hereto.

**THERE ARE NO RESTRICTIONS ON CHILDREN RESIDING IN THE CONDOMINIUM.**

(1) Each Condominium Unit shall be used as a residence and/or home office only, except as otherwise herein expressly provided, all in accordance with all applicable county and state codes, ordinances and regulations. Home office use of a Unit shall only be permitted to the extent permitted by law and to the extent that the office is not staffed by employees, is not used to receive clients and/or customers and does not generate additional visitors or traffic into the Unit or on any part of the Condominium Property. The provisions of this Section 21(a)(i) shall not be applicable to Units used by the Developer for model apartments, sales offices, management services, repairs, maintenance or construction..

(2) All automobiles shall be parked only in the parking spaces so designated for that purpose by the Association, and in accordance with the Association's rules and regulations concerning same. Unit Owners may not park in the guest parking spaces. Each Unit Owner agrees to notify all guests of the regulations regarding parking, and to require guests to abide by such parking regulations. No parking of commercial trucks of any nature or similar commercial vehicles shall be permitted for a period of more than four hours except temporarily during periods for purposes of actual construction or repair of a structure, or moving in or out and for moving or transferring furniture or for grounds maintenance. No commercial truck, commercial van, or other commercial vehicle, and no recreation vehicle shall be permitted to be parked overnight. Notwithstanding the foregoing, vans equipped for personal passenger use shall be permitted, even if such vans are not kept fully enclosed inside a structure. No boat, boat trailer or other trailer of any kind, camper, mobile home, motor home or disabled vehicle shall be permitted to be parked or stored on the Condominium Property, unless stored in the Unit Owner's assigned spaces, to the extent the Unit Owner has one. Any such vehicle or any of the properties mentioned in this subparagraph which are not permitted on the Condominium Property pursuant to this subparagraph may be removed by the Association at the expense of the Unit Owner owning and/or responsible for the same, and the Unit Owner owning and/or responsible for the same shall have no right of recourse against the Association therefor. No repairing of automobiles, trailers, boats, campers, golf carts, or any other property of a Unit Owner will be permitted on the Condominium Property.

(3) No commercial truck, commercial van, or other commercial vehicle, and no boat, boat trailer or other trailer of any kind, camper, mobile home, disabled vehicle, motor home or recreational vehicle shall be used on the Condominium Property as a domicile or residence, either permanent or temporary.

(4) Each Unit Owner shall maintain his or her Condominium Unit in good condition and repair, including all internal surfaces within or surrounding his or her Condominium Unit, and each Unit Owner shall maintain and repair the fixtures therein and shall promptly pay for any utilities which are metered separately to his or her Condominium Unit. Landscaped and grassed areas shall be used only for the purposes intended. No articles belonging to Unit Owners or residents shall be kept in such areas, temporarily or otherwise.

(5) Each Unit Owner shall maintain his or her Condominium Unit in a clean and sanitary manner.

(6) Without limiting the generality of Section 28(a) hereof, no Condominium Unit Owner shall cause or allow improvements or changes to any Unit, Limited Common Elements appurtenant thereto, Common Elements or Association Property, including, but not limited to, painting or other decorating of any nature, installing any electrical wiring, television antenna, machinery, or air-

conditioning units, which in any manner change the appearance of any portion of the Building, without obtaining the prior written consent of the Association (in the manner specified in Section 28(a) hereof). Curtains, blinds, shutters, levelors, or drapes (or linings thereof) which face the exterior windows or glass doors of Units shall be white or off-white in color and shall be subject to disapproval by the Association, in which case they shall be removed and replaced with acceptable items.

(7) No nuisances (as defined by the Association) shall be allowed on the Condominium or Association Property, nor shall any use or practice be allowed which is a source of annoyance to occupants of Units or which interferes with the peaceful possession or proper use of the Condominium and/or Association Property by its residents, occupants or members. No activity specifically permitted by this Declaration, shall be deemed a nuisance, regardless of any noises and/or odors emanating therefrom (except, however, to the extent that such odors and/or noises exceed limits permitted by applicable law). Additionally, any construction and/or remodeling work on a Condominium Unit by anyone other than the Developer may only occur during the business hours of 9:00 to 5:00 on Monday through Friday, and not at all on holidays and/or weekends.

(8) Each Unit Owner may only identify his or her Condominium Unit by a name plate if approved by the Association and mounted in a place and manner so approved. All mailboxes shall be approved by the Association prior to installation. No newspaper tubes or driveway reflectors shall be installed.

(9) No signs, advertising, or notices of any kind or type whatsoever, including, but not limited to, "For Rent" or "For Sale" signs, shall be permitted or displayed on any Condominium Unit or, Common Element or Limited Common Element; nor shall the same be posted or displayed in such a manner as to be visible from the exterior of any Condominium Unit, without the prior written approval of the Board of Directors, except that the Developer can post such signs until all of the Condominium Units owned by it are sold.

(10) Unless installed by the Developer or meeting the sound insulation specifications set forth herein (as same may be modified from time to time), hard and/or heavy surface floor coverings, such as tile, marble, wood, and the like will be permitted only in foyers, kitchens and bathrooms. Although prior Board approval is not required, the installation of any hard and/or heavy surface floor coverings must meet the following specifications: the aggregate sound isolation and acoustical treatment shall carry a minimum Sound Transmission Classification (SIC) of 50, and the installation of the foregoing insulation materials shall be performed in a manner that provides proper mechanical isolation of the flooring materials from any rigid part of the building structure, whether of the concrete subfloor (vertical transmission) or adjacent walls and fittings (horizontal transmission) and must be installed prior to the Unit being occupied. Notwithstanding the foregoing, the floor coverings (and insulation and adhesive material therefor) installed on any balcony, terrace, patio and/or lanai

shall not exceed a thickness that will result in the finish level of the balconies, terraces, patios and/or lanais being above the bottom of the scuppers. Also, the installation of any improvement or heavy object must be submitted to and approved by the Board, and be compatible with the overall structural design of the building. All areas within a Unit other than foyers, kitchens and bathrooms are to receive sound absorbent, less dense floor coverings, such as carpeting or hard surface floor coverings meeting the specifications described above. The Board will have the right to specify the exact material to be used on balconies, terraces, patios and/or lanais. Any use guidelines set forth by the Association shall be consistent with good design practices for the waterproofing and overall structural design of the Building. Owners will be held strictly liable for violations of these restrictions and for all damages resulting therefrom and the Association has the right to require immediate removal of violations. **Applicable warranties of the Developer, if any, shall be voided by violations of these restrictions and requirements. Each Owner agrees that sound transmission in a high-rise building such as the Condominium is very difficult to control, and that noises from adjoining or nearby Units and or mechanical equipment can often be heard in another Unit. The Developer does not make any representation or warranty as to the level of sound transmission between and among Units and the other portions of the Condominium Property, and each Owner shall be deemed to waive and expressly release any such warranty and claim for loss or damages resulting from sound transmission.**

(11) No improper, offensive, hazardous or unlawful use shall be made of the Condominium or Association Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium and/or Association Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Section 21. No activity specifically permitted by this Declaration, shall be deemed a nuisance or a violation of this Section.

(12) All damage to Condominium Property caused by the moving and/or carrying of articles therein shall be paid by the Unit Owner or person in charge of such articles.

(13) Soliciting is strictly forbidden. Unit Owners should notify the Association if a solicitor appears, and appropriate action will be taken.

(14) No Unit Owner or resident of a Condominium Unit shall permit or suffer anything to be done or kept in his or her Condominium Unit which will increase the insurance rates on his Condominium Unit, the Limited Common

Elements, if any, or the Common Elements, or which will obstruct the rights or interfere with the right of other Unit Owners or residents or annoy them by unreasonable noises or otherwise; nor shall an Unit Owner of a Condominium Unit commit or permit any nuisances, immoral or illegal act in a Condominium Unit, the Limited Common Elements, if any, or on the Common Elements.

(15) Unit Owners shall not do anything within their Units or on the Common Elements which would adversely affect the safety or soundness of the Common Elements or any portion of the Condominium Property.

(16) Each Unit Owner or resident shall conform to and abide by the Bylaws and uniform rules and regulations in regard to the use of the Condominium Unit, Limited Common Elements and Common Elements which may be adopted in writing from time to time by the Board of Directors of the Association, and to see that all persons using the Unit Owner's property by, through, or under him do likewise.

(17) Each Unit Owner or resident shall allow the Association or its authorized agent to enter any Condominium Unit and the improvements thereon during reasonable hours when necessary for the maintenance, repair and/or replacement of any Common Elements which include Limited Common Elements or for making emergency repairs which are necessary to prevent damage to the Common Elements which include the Limited Common Elements or to another Condominium Unit or Condominium Units.

(18) Unit Owners or residents shall make no repairs to any plumbing or electrical wiring within a Unit except by a plumber or electrician licensed in Pinellas County, Florida.

(19) No outside antennas, antenna poles, antenna masts, electronic devices, antenna towers or citizen band (CB) or amateur band (ham) antennas shall be permitted except as approved by the Board of Directors in writing. No outside satellite receptor dishes or devices or any other type of electronic device now in existence, or that may hereafter come into existence, that is utilized or designed to be utilized for the transmission or reception of electronic or other type of signal shall be allowed without the prior written approval of the Board of Directors. A flagpole for display of the American flag only and any other flag approved in writing by the Board of Directors shall be permitted and its design and location must be first approved in writing by the Board of Directors; provided, however, any Unit Owner may display one portable, removable United States flag in a respectable way and on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day may display in a respectful way portable, removable official flags, not larger than four and one-half feet by six feet, that represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, regardless of any declaration rules or requirements dealing with flags. An approved flagpole shall not be used as an antenna.

(20) Solar collectors shall be permitted only at locations and on structures as are first approved in writing by the Board of Directors.

(21) Any change to the exterior lighting of a Condominium Unit must be approved in writing by the Board of Directors.

(22) No household pets shall be permitted by Unit Owners on the Condominium Property except in accordance with the pet behavior criteria established in the Rules and Regulations for the Condominium. Furthermore, all permitted pets must be contained in the Unit Owner's Condominium Unit and shall not be permitted to roam free. Further, all permitted pets must be leashed at all times when not located in the Condominium Unit and may be walked only in designated areas. No goats, chickens, pigeons or any other obnoxious animals, fowl or reptiles shall be kept or permitted to be kept. Commercial activities involving pets shall not be allowed.

(23) No Unit Owner may alter or change the flooring which is not supplied by the Developer in a Condominium Unit, patios or balconies unless the Board of Directors has approved the plan for providing adequate noise insulation.

(24) Personal property of Unit Owners including bicycles, mopeds, and similar items shall be kept in the Condominium Units or storage areas for the Condominium Unit except when in use.

(25) Unit Owners shall not use the guest parking spaces for their own personal use.

(26) All window coverings, which may only be blinds, drapes or curtains, shall be lined with white or off white lining on the side exposed to the public, and no sheets nor no tin foil shall be permitted as a form of window covering.

(27) Unit Owners shall not be permitted access to or use of the equipment/mechanical rooms, the manager's residence, if any, and the roof of the Building, except for the permitted designated areas on the roof.

(28) There shall be no barbecuing nor grilling on any of the patios or balconies, except for a unit equipped with an outdoor kitchen by the Developer.

(29) No Unit Owner may hold or conduct an open house for sale of the Unit Owner's Unit, without the prior written approval of the Board of Directors.

(30) The Board of Directors of the Association has the right to establish, modify and amend additional rules and regulations governing the conduct of all residents and also the use of the Condominium Units, Limited Common Elements and Common Elements, so long as such additional rules and regulations are not inconsistent with the terms and conditions of this Declaration.



(b) Effect on Developer. Subject to the following exceptions, the restrictions and limitations set forth in this Section 21 shall not apply to the Developer nor to Units owned by the Developer. The Developer shall not be exempt from the restrictions, if any, relating to requirements that leases or lessees be approved by the Association, pet restrictions, occupancy of Units based on age and vehicular restrictions, except as such vehicular restrictions relate to the Developer's construction, maintenance and marketing activities.

The Association has the right to establish additional rules and regulations governing the conduct of all residents and also the use of the Condominium Units, Limited Common Elements and Common Elements, so long as such additional rules and regulations are not inconsistent with the terms and conditions of this Declaration. The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in this Section 21 for good cause shown.

22. DEVELOPER'S RIGHTS DURING DEVELOPMENT PERIOD. During such time as the Developer, its successors or assigns is in the process of construction or sale of Condominium Units on the lands described in Exhibit "A" hereto, the Developer, its successors or assigns expressly reserve the following rights:

(a) The right to prohibit access to any uncompleted Building to any of the residents of the Condominium, while such uncompleted Building is under construction and development. No Unit Owner or his guests or invitees shall in any way interfere or hamper the Developer, its employees, contractors, successors or assigns, in connection with such construction. Thereafter, during such time as the Developer, its successors or assigns, owns any Condominium Units within the Buildings and is carrying on any business in connection therewith, including the selling, renting or leasing of such Condominium Units, the Unit Owners, their guests and invitees shall in no way interfere with such activities or prevent access to such Condominium Units by the Developer, its successors or agents.

(b) An easement for pedestrian traffic over, through and across sidewalks, paths, walks, halls, lobbies, center cores and other portions of the Common Elements as may be from time to time necessary and intended for such purpose of going from one portion of the Condominium Property to another, including but not limited to, all recreational facilities, if any, and, where necessary, for the proceeding from one portion of the Condominium Property to the other, and for vehicular traffic as may be necessary for the Developer, its guests, assigns and invitees for the purpose of crossing over various portions of the Condominium Property to obtain ingress and egress to the Condominium Property. Provided, however, that nothing contained herein shall be construed to allow any person or entity to enter upon the Condominium Property unless it is upon an area specifically designated for such traffic and necessary for such ingress and egress as described above and under no circumstances shall such traffic be allowed through or over any Condominium Unit not owned by the Developer its successors or assigns, or any Limited Common Element appurtenant thereto.

23. COVENANTS. All provisions of this Declaration shall be construed to be covenants running with the land and with every part thereof and interest therein, and every Unit Owner and claimant of the land or any part thereof or interest therein, and his heirs, executors,

administrators, personal representatives, successors, assigns and leases shall be bound by all the provisions of this Declaration.

24. DISCLOSURES.

(a) Mildew. Given the climate and humid conditions in Florida, molds, mildew, toxins and fungi may exist and/or develop within the Unit, and/or the Condominium Property. Each Owner is hereby advised that certain molds, mildew, toxins and/or fungi may be, or if allowed to remain for a sufficient period may become, toxic and potentially pose a health risk. By acquiring title to a Unit, each Owner shall be deemed to have assumed the risks associated with molds, mildew, toxins and/or fungi and to have released the Developer from any and all liability resulting from same.

(b) Mitigation of Dampness and Humidity. No Unit Owner shall install, within his or her Unit, or upon the Common Elements, non-breathable wall-coverings or low-permeance paints. Additionally, any and all built-in casework, furniture, and or shelving in a Unit must be installed over floor coverings to allow air space and air movement and shall not be installed with backboards flush against any gypsum board wall. Additionally, all Unit Owners, whether or not occupying the Unit, shall periodically run the air conditioning system to maintain the Unit temperature, whether or not occupied, at 78°F, to minimize humidity in the Unit. While the foregoing are intended to minimize the potential development of molds, fungi, mildew and other mycotoxins, each Owner understands and agrees that there is no method for completely eliminating the development of molds or mycotoxins. The Developer does not make any representations or warranties regarding the existence or development of molds or mycotoxins and each Owner shall be deemed to waive and expressly release any such warranty and claim for loss or damages resulting from the existence and/or development of same. In furtherance of the rights of the Association as set forth in this Declaration, in the event that the Association reasonably believes that the provisions of this Section are not being complied with, then, the Association shall have the right (but not the obligation) to enter the Unit (without requiring the consent of the Owner- or any other party) to turn on the air conditioning in an effort to cause the temperature of the Unit to be maintained as required hereby (with all utility consumption costs to be paid and assumed by the Unit Owner). To the extent that electric service is not then available to the Unit, the Association shall have the further right, but not the obligation (without requiring the consent of the Owner or any other party) to connect electric service to the Unit (with the costs thereof to be borne by the Unit Owner, or if advanced by the Association, to be promptly reimbursed by the Owner to the Association, with all such costs to be deemed charges hereunder).

(c) Warranty Disclosure. Except only for those warranties provided in Section 718.203, Florida Statutes (and then only to the extent applicable and not yet expired), to the maximum extent lawful Developer hereby disclaims any and all and each and every express or implied warranties, whether established by statutory, common, case law or otherwise, as to the design, construction, sound and/or odor transmission, existence and/or development of molds, mildew, toxins or fungi, furnishing and equipping of the Condominium Property , including, without limitation, any implied warranties of habitability, fitness for a particular purpose or merchantability, compliance with plans, all warranties imposed by statute (other than those imposed by Section 718.203, Florida Statutes, and then only to the extent applicable and not yet

expired) and all other express and implied warranties of any kind or character. Developer has not given and the Unit Owner has not relied on or bargained for any such warranties. Each Unit Owner, by accepting deed to a Unit, or other conveyance thereof, shall be deemed to represent and warrant to Developer that in deciding to acquire the Unit, the Unit Owner relied solely on such Unit Owner's independent inspection of the Unit, and the Condominium. The Unit Owner has not received nor relied on any warranties and/or representations from Developer of any kind, other than as expressly provided herein. All Unit Owners, by virtue of their acceptance of title to their respective Units (whether from the Developer or another party) shall be deemed to have automatically waived all of the aforesaid disclaimed warranties and incidental and consequential damages. The foregoing shall also apply to any party claiming by, through or under a Unit Owner, including a tenant thereof. Buyer acknowledges and agrees that Seller does not guarantee, warrant or otherwise assure, and expressly disclaims, any right to view and/or natural light.

(d) Unit Measurements. Each Owner, by acceptance of a deed or other conveyance of a Unit, understands and agrees that there are various methods for calculating the square footage of a Unit, and that depending on the method of calculation, the quoted square footage of the Unit may vary by a nominal amount. Each Unit Owner's square footage set forth in this Declaration is calculated based on the definition of Unit set forth in this Declaration. Additionally, as a result of in the field construction, other permitted changes to the Unit, and settling and shifting of improvements, actual square footage of a Unit may also be affected. By accepting title to a Unit, the applicable Owner(s) shall be deemed to have conclusively agreed to accept the size and dimensions of the Unit, regardless of any normal variances in the square footage from that which may have been disclosed at any time prior to closing, whether included as part of Developer's promotional materials or otherwise.

(e) Condominium Assessments. Buyer understands and agrees that the Estimated Operating Budget for the Association (the "Budget") contained in the Condominium Documents provides only an estimate of what it will cost to run the Association during the period of time stated in the Budget. The monthly assessments shown for the Unit are guaranteed, if at all, in the manner stated in this Declaration. The Budget however, as opposed to the levels of assessments payable to the Condominium Association, are not guaranteed to accurately predict actual expenditures. Changes in the Budget may be made at any time to cover increases or decreases in actual expenses or in estimates. It is intended that the Developer, as the sole Unit Owner upon the formation of the Condominium, will vote not to provide any reserves for the initial year of the Association. Thereafter, to the extent permitted by the Condominium Act, the Developer may vote to continue not to provide any reserves. If an election is in fact made to waive reserves, the assessments per unit payable to the Association will be as set forth in the Estimated Operating Budget as "Assessments per Unit - Without Reserves". If no such election is made, the assessments per Unit payable to the Association will be as set forth in the Estimated Operating Budget as "Assessments per Unit — With Reserves."

**25. ADDITIONS, IMPROVEMENTS OR ALTERATIONS BY THE ASSOCIATION.** Whenever in the judgment of the Board of Directors, the Common Areas, the Association Property, or any part of either, shall require capital additions, alterations or improvements (as distinguished from repairs and replacements) costing in excess of three percent (3%) of the then applicable budget of the Association in the aggregate in any calendar year, the

Association may proceed with such additions, alterations or improvements only if the making of such additions, alterations or improvements shall have been approved by a majority of the voting interests represented at a meeting at which a quorum is attained. Any such additions, alterations or improvements to such Common Areas, the Association Property, or any part of either, costing in the aggregate three percent (3%) of the then applicable budget of the Association or less in a calendar year may be made by the Association without approval of the Unit Owners. The cost and expense of any such additions, alterations or improvements to such Common Areas or Association Property shall constitute a part of the Common Expenses and shall be assessed to the Unit Owners as Common Expenses.

26. ADDITIONS ALTERATIONS OR IMPROVEMENTS BY UNIT OWNER.

(a) Consent of the Board of Directors. No Unit Owner shall make any addition, alteration or improvement in or to the Common Areas, the Association Property, his or her Unit or any Limited Common Area which is visible from any other Unit, the Common Areas and/or Association Property, without, in each instance, the prior written consent of the Board of Directors. The Board shall have the obligation to answer, in writing, any written request by a Unit Owner for approval of such an addition, alteration or improvement within thirty (30) days after such request and all additional information requested is received, and the failure to do so within the stipulated time shall constitute the Board's consent. The Board may condition the approval in any manner, including, without limitation, requiring payment of an architectural review fee (as may be reasonably adopted from time to time by the Board to offset the costs which must be incurred in reviewing any such submittals, retaining approval rights of the contractor to perform the work and requiring the Unit Owner to obtain insurance naming the Developer and the Association as additional insureds. The proposed additions, alterations and improvements by the Unit Owners 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 Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. Once approved by the Board of Directors, such approval may not be revoked.

A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his or her 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, and shall be solely responsible for the maintenance, repair and insurance thereof from and after that date of installation or construction thereof as may be required by the Association. The Association's rights of review and approval of plans and other submissions under this Declaration are intended solely for the benefit of the Association. Neither the Developer, the Association nor any of its officers, directors, employees, agents, contractors, consultants or attorneys shall be liable to any Owner or any other person by reason of mistake in judgment, failure to point out or correct deficiencies in any plans or other submissions, negligence, or any other misfeasance, malfeasance or non-feasance arising out of or in connection with the approval or disapproval of any plans or submissions. Anyone submitting plans hereunder, by the submission of same, and any Owner, by acquiring title to same, agrees not to seek damages from the Developer and/or the Association arising out of the Association's review of any plans

hereunder. Without limiting the generality of the foregoing, the Association shall not be responsible for reviewing, nor shall its review of any plans be deemed approval of, any plans from the standpoint of structural safety, soundness, workmanship, materials, usefulness, conformity with building or other codes or industry standards, or compliance with governmental requirements. Further, each Owner (including the successors and assigns) agrees to indemnify and hold the Developer and the Association harmless from and against any and all costs, claims (whether rightfully or wrongfully asserted), damages, expenses or liabilities whatsoever (including, without limitation, reasonable attorneys' fees and court costs at all trial and appellate levels), arising out of any review of plans by the Association hereunder.

(b) Life Safety Systems. No Unit Owner shall make any additions, alterations or improvements to the Life Safety Systems, and/or to any other portion of the Condominium Property which may impair the Life Safety Systems or access to the Life Safety Systems, without first receiving the prior written approval of the Board. In that regard, no lock, chain or other device or combination thereof shall be installed or maintained at any time on or in connection with any door on which panic hardware or fire exit hardware is required. Stairwell identification and emergency signage shall not be altered or removed by any Unit Owner whatsoever. No barrier including, but not limited to personalty, shall impede the free movement of ingress and egress to and from all emergency ingress and egress passageways.

(c) Improvements, Additions or Alterations by Developer. Anything to the contrary notwithstanding, the foregoing restrictions of this Section 26 shall not apply to Developer-owned Units. The Developer shall have the additional right, without the consent or approval of the Board of Directors or other Unit Owners, to make alterations, additions or improvements, interior and exterior, ordinary and extraordinary, in, to and upon any Unit owned by it and Limited Common Areas appurtenant thereto (including, without limitation, the removal of walls, floors, ceilings and other structural portions of the Improvements and/or the installation of divider walls). In addition, the Developer shall have the right, without the consent or approval of the Board of Directors or other Unit Owners, to expand or add to all or any part of the recreational facilities, so as to change the proportion or percentage of Common Expenses or costs to the individual Unit Owners; provided, however, that the percentage interest in the Common Elements and share of the Common Surplus and Common Expenses of any Units (other than the affected Developer-owned Units) shall not be changed by reason thereof unless the Owners of such units shall consent thereto and, provided further, that Developer shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction in so doing. Any amendment to this Declaration required by a change made by the Developer pursuant to this Section 26(c) shall be adopted by all Unit Owners and all record owners of mortgages or other liens thereon and the same shall join in the execution of the amendment.

**27. CHANGES IN DECLARANT-OWNED UNITS.** Without limiting the generality of provisions of Section 26(c) above, and anything to the contrary notwithstanding, the Developer shall have the right, without the vote or consent of the Association or Unit Owners, to (i) make alterations, additions or improvements in, to and upon Units owned by the Developer, whether structural or non-structural, interior or exterior, ordinary or extraordinary; (ii) change the layout or number of rooms in any Developer-owned Units; (iii) change the size of Developer-owned Units by combining separate Developer-owned Units into a single apartment (although being kept as two separate legal Units), or otherwise; and (iv) reapportion among the Developer-

owned Units affected by such change in size pursuant to the preceding clause, their appurtenant interests in the Common Areas and share of the Common Surplus and Common Expenses; provided, however, that the percentage interest in the Common Areas and share of the Common Surplus and Common Expenses of any Units (other than the affected Developer-owned Units) shall not be changed by reason thereof unless the Owners of such units shall consent thereto and, provided further, that Developer shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction in so doing. In making the above alterations, additions and improvements, the Developer may relocate and alter Common Elements adjacent to or near such Units, incorporate portions of the Common Areas into an adjacent Unit and incorporate Units into adjacent Common Areas, provided that such relocation and alteration does not materially adversely affect the market value or ordinary use of Units owned by Unit Owners other than the Developer. Any amendments to this Declaration required by changes of the Developer made pursuant to this Section 27, shall be effected by the Developer alone pursuant to Section 12(c), without the vote consent of the Association or Unit Owners (or their mortgagees) required, except to the extent that any same constitutes a Material Amendment, in which event, the amendment must be approved as set forth in Section 12 above. Without limiting the generality of Section 12(c) hereof, the provisions of this Section shall not be added to, amended or deleted without the prior written consent of the Developer.

28. INVALIDATION AND OPERATION.

(a) Invalidation of any portion of this Declaration or of any provision contained in a conveyance of a Condominium Unit, whether by judgment or court order or law, shall not affect any of the other provisions, which shall remain in full force and effect.

(b) In the event any court should hereafter determine that any provision as originally drafted herein violates the rule against perpetuities or any other rule of law because of the duration of the period involved, the period specified in the Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rule of law and for such purpose measuring lives shall be those of the incorporator of the Association.

29. INTERPRETATION. Whenever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the plural shall include the singular, and the singular shall include the plural. The provisions of this Declaration shall be literally construed to effectuate its purpose of creating a uniform plan for the operation of a condominium in accordance with the laws made and provided for same, to-wit: Chapter 718, Florida Statutes, as of the date hereof.

30. HURRICANE SHUTTERS. Unit Owners may install hurricane or storm shutters only in accordance with the specifications adopted by the Board of Directors, which shall include specifications concerning color, style and other factors deemed relevant by the Board. All specifications adopted by the Board shall comply with the applicable building code. The Board reserves the right (but is not obligated), subject to provisions of §718.3026, Florida Statutes, and the approval of a majority of voting interests of the Condominium, to install hurricane shutters and may maintain, repair or replace such approved hurricane shutters, whether on or within Common Elements, Limited Common Elements, Units or the Association Property. However, where laminated glass architecturally designed to function as hurricane protection which

complies with the applicable building codes has been installed, the Board may not install hurricane shutters. The Board may operate shutters installed pursuant to this Section 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 installing and repairing hurricane shutters by the Board shall constitute a Common Expense, although a Unit Owner who has previously installed hurricane shutters or laminated glass architecturally designed to function as hurricane protection which complies with the applicable building code shall receive a credit equal to the pro rata portion of the assessed installation costs assigned to each Unit.

31. CONSENT BY MORTGAGEES. In the event that mortgagee consent is required for any amendment to this Declaration pursuant to Section 12, the approval of fifty-one percent (51%) of the Institutional Mortgagees holding mortgages of record on Condominium Units in the Condominium shall be required.

An addition or amendment shall not be considered material if it is for the purpose of correcting technical or scrivener's errors or for clarification only. An Institutional Mortgagee who receives a written request from the Association to approve material additions or amendments to the above items who does not deliver or post a negative response to the Association within thirty (30) days shall be deemed to have approved such addition or amendment.

32. NOTICE TO INSTITUTIONAL MORTGAGEES. Upon written request to the Association, Institutional Mortgagees will be entitled to timely written notice of:

(a) Any condemnation or casualty loss that affects either a material portion of the Condominium Project or the Condominium Unit securing its mortgage.

(b) Any 60-day delinquency in the payment of assessments or charges owed by the owner of any unit on which it holds the mortgage.

(c) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action that requires the consent of a specified percentage of mortgage holders.

33. ADDITIONAL RIGHTS OF INSTITUTIONAL MORTGAGEES. Institutional Mortgagees shall have the following rights:

(a) Upon written request of an Institutional Mortgagee to the Association any Institutional Mortgagee is entitled to a copy of the financial statements of the Association for the immediately preceding fiscal year as soon as such financial statements are available.

(b) The Association shall make available for inspection upon the Institutional Mortgagee's request, during normal business hours of the Association, current copies of the Declaration, Bylaws, other rules concerning the Condominium Property, and the books, records and financial statement of the Association.

34. **SECURITY.** NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BY-LAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION (COLLECTIVELY, THE "ASSOCIATION DOCUMENTS"), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE CONDOMINIUM PROPERTY INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(a) IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE CONDOMINIUM PROPERTY HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE CONDOMINIUM PROPERTY AND THE VALUE THEREOF;

(b) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, PINELLAS COUNTY, AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

(c) ANY PROVISIONS OF THE CONDOMINIUM DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

AS USED IN THIS ARTICLE, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, MANAGERS, CONTRACTORS, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS AND SHALL ALSO INCLUDE THE DEVELOPER, WHICH SHALL BE FULLY PROTECTED HEREBY.

35. **TERMINATION.** The Condominium may be terminated in the following manner:

(a) Subject to paragraphs (b) and (c) below, the Declaration and any amendments or supplements hereto will remain in effect from date of recordation until thirty-five (35) years from the date the Declaration is recorded in Public Records of Pinellas County,



Florida. Thereafter, this Declaration will be automatically extended for five (5) successive periods of ten (10) years each, unless otherwise modified or terminated as provided below.

(b) Except as provided in Section 17(g)(2), the termination of the Condominium may be effected by unanimous agreement of all Unit Owners and all mortgagees holding mortgages on said Condominium Units, which agreement shall be evidenced by an instrument or instruments executed in the manner required for conveyances of land. The termination shall become effective when such agreement has been recorded in the Public Records of Pinellas County, Florida.

(c) Upon termination of the Condominium, the Condominium Property shall be owned in common by all the Unit Owners in the same undivided shares as each Unit Owner had in the Common Elements pursuant to the provisions of this Declaration. All liens shall be transferred to the undivided share in the Condominium Property attributable to the Condominium Unit originally encumbered by the lien in its same priority.

### 36. SURFACE WATER MANAGEMENT SYSTEM AND STORM WATER MANAGEMENT SYSTEM.

(a) Dedication. The Surface Water Management System and Storm Water Management System are hereby dedicated as part of the Common Elements. The Surface Water Management System and Storm Water Management System shall be the perpetual responsibility of the Association and may in no way be altered from their natural or permitted state.

(b) Maintenance and Monitoring. The Association shall be responsible for the maintenance, operation and repair of the Surface Water Management System and Storm Water Management System. Maintenance of the Surface Water Management System and Storm Water Management System shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or storm water management capabilities as permitted by the South West Florida Water Management District (the "District"). Any repair or reconstruction of the Surface Water Management System and Storm Water Management System shall be as permitted or if modified, as approved by the District.

(c) Use Restrictions. The Association shall enforce the use restrictions for the Surface Water Management System and Storm Water Management System. Activities prohibited within the Surface Water Management System and Storm Water Management System shall include, but not be limited to:

- (1) Digging or excavation;
- (2) Depositing fill, debris, or any other material or item;
- (3) Constructing or altering any water control structure; or
- (4) Any other construction that would modify the Surface Water Management System and Storm Water Management System.

If the Condominium Property contains a wetland mitigation area or a wet detention pond (as defined in the District regulations), no vegetation in these areas shall be removed, cut, trimmed or sprayed with herbicide without specific written approval from the District.

(d) Construction. Construction and maintenance activities which are consistent with the design and permit conditions approved by the District in the Environmental Resource Permit may be conducted without specific written approval from the District.

(e) Enforcement by District. The District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration and take enforcement measures, including a civil action for injunction and/or penalties, against the Association to compel the Association to correct any outstanding problems with the Surface Water Management System and Storm Water Management System.

(f) Dissolution of Association. If the Association ceases to exist, then all Unit Owners shall be jointly and severally responsible for operation and maintenance of the Surface Water Management System and Storm Water Management System in accordance with the requirements of the Environmental Resource Permit, unless and until an alternate entity assumes responsibility for such system.

(g) Covenant for Maintenance Assessments for Association. Assessments shall also be used for the operation, maintenance, repair and replacement of the Surface Water Management System and Storm Water Management System including but not limited to work within retention areas, drainage structures and drainage easements.

(h) Easement for Access and Drainage. The Association shall have a perpetual non-exclusive easement over all areas of the Surface Water Management System and Storm Water Management System for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any Unit which is a part of the Surface Water Management System and Storm Water Management System at a reasonable time and in a reasonable manner to operate, maintain or repair the Surface Water Management System and Storm Water Management System as required by the District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire Surface Water Management System and Storm Water Management System. No person shall alter the drainage flow, the Surface Water Management System and Storm Water Management System, including buffer areas or swails, without the prior written approval of the District.

(i) Amendment. Any amendment to this Declaration which alters any provisions relating to the Surface Water Management System and Storm Water Management System, beyond maintenance in its original condition, including the water management portions of the Common Elements, must have the prior approval of the District.

IN WITNESS WHEREOF, the Developer has caused these presents to be signed in its name by the proper officers of its managing general partner thereunto duly authorized and its corporate seal affixed, the day and year first above written.

Signed, sealed and delivered  
In the presence of:

INDIAN ROCKS BEACH DEVELOPMENT,  
LLC, a Florida limited liability company

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Address: Post Office Box 1839  
Tampa, FL 33601

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of Indian Rocks Beach Development, LLC, a Florida limited liability company, on behalf of the limited liability company, who is personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC

Print Name: \_\_\_\_\_

Serial Number: \_\_\_\_\_

My Commission Expires:

**CONSENT OF MORTGAGEE**

The undersigned, the holders (collectively, the "Holders") of that certain Mortgage, dated \_\_\_\_\_, recorded \_\_\_\_\_ in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_ of the Public Records of Pinellas County, Florida (the "Mortgage"), encumbering the land described in Exhibit "A" attached to the Declaration of Condominium of BELLA CAPRI, a Condominium (the "Declaration"), for which this Consent is executed, hereby consents to said Declaration and agrees that the lien of its Mortgage, to the extent of an encumbrance upon the land described in Exhibit "A" attached to the Declaration shall be upon all of the condominium parcels of BELLA CAPRI, a Condominium, according to the Declaration thereof, together with all of the appurtenances, including but not limited to, any common elements appurtenant to the condominium parcels so encumbered and to the undivided shares of the common elements.

Nothing contained herein shall be deemed to or in any way limit or affect the Mortgage held by Holders of the priority of the lien created thereby and the sole purpose of this Consent is to acknowledge the consent of said mortgagee to the Declaration as hereinabove provided.

This instrument is executed by the undersigned for the purpose of complying with, or pursuant to Florida Statutes, Chapter 718. Executed this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

WITNESSES: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_ By: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_, on behalf of the Bank. He or she is personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC  
Name: \_\_\_\_\_  
Serial #: \_\_\_\_\_

My Commission Expires:

**EXHIBIT "A"**

**The Land**

LOTS 8, 9, 10, 11, 12, 13, 14, AND 15, AND ALL VACATED BEACH DRIVE LYING WEST OF LOTS 8, 9, 10, AND 11 IN BLOCK 1, OF HAVEN BEACH SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, AT PAGE 27, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.

**EXHIBIT "B"**

**Survey, Graphic Description and Plot Plan**

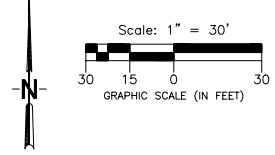
# BELLA CAPRI, A CONDOMINIUM

SECTION 12 TOWNSHIP 30 SOUTH, RANGE 14 EAST  
CITY OF INDIAN ROCKS BEACH, PINELLAS COUNTY, FLORIDA

**DESCRIPTION:**

LOTS 8, 9, 10, 11, 12, 13, 14, AND 15, AND ALL VACATED BEACH DRIVE LYING WEST OF LOTS 8, 9, 10, AND 11 IN BLOCK 1, OF HAVEN BEACH SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, AT PAGE 27, OF THE PUBLIC RECORDS OF PINELLAS COUNTY FLORIDA

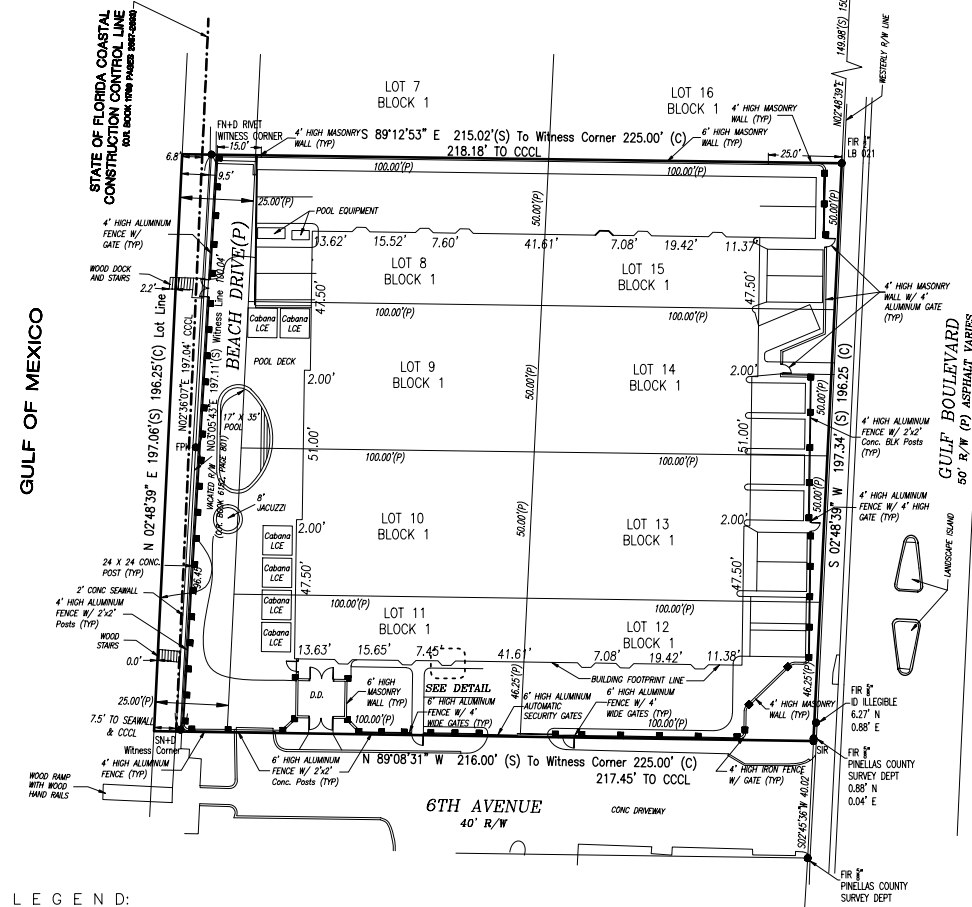
**BASIS OF BEARINGS:**  
WESTERLY R/W LINE OF GULF BOULEVARD BEARS S.02°48'39"W., (GRID)



NOTE: ELEVATIONS SHOWN HEREON REFER TO NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988)

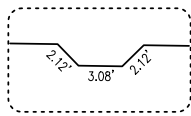
**NOTES:**

- UNIT BOUNDARIES.**
  - UPPER BOUNDARIES.**
    - The upper boundary of all Units shall be the horizontal plane of the lowest surface of the unfinished ceiling of the Unit extended to an intersection with the perimetrical boundaries.
    - The upper boundary of the portion of the Units comprising the garage shall be the plane of the lowest surface of the unfinished garage ceiling.
  - Lower Boundaries.** The lower boundary of all Units shall be the horizontal plane of the unfinished floor slab of that Unit and the horizontal plane of the unfinished garage slab extended to an intersection with the perimetrical boundaries.
  - Perimetrical Boundaries.** The perimetrical boundaries of a Unit shall be the following boundaries extended to an intersection with upper and lower boundaries:
    - EXTERIOR BUILDING WALLS:** The intersecting vertical plane(s) of the innermost unfinished surfaces of the exterior wall of the building bounding such Unit.
    - INTERIOR BUILDING WALLS:** The vertical planes of the innermost unfinished surface of the party walls dividing such Units extended to intersections with other perimetrical boundaries.
- COMMON ELEMENTS.** Common Elements mean and include in addition to the items as listed in Section 718.108, Florida Statutes, the following items:
  - The portions of the Condominium Property which are not included within the units and/or the Association Property.
  - Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to Units, Common Elements and/or the Association Property.
  - An easement of support in every portion of a Unit which contributes to the support of the Building.
  - The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements and/or the Association Property.
  - Any other parts of the Condominium Property designated as Common Elements in this Declaration, which shall specifically include the Surface Water Management System and Storm Water Management System for the Condominium.
  - Any and all portions of the Life Safety Systems, regardless of where located within the Condominium Property.
  - Cross-easements for ingress, egress, support, maintenance, repair, replacements and utilities.
  - Easements for encroachments by the perimeter walls, ceilings and floors surrounding each Condominium Unit caused by the settlement or movement of the Building or by minor inaccuracies in building or rebuilding which may now exist or hereafter exist, and such easements shall continue until such encroachments no longer exist.
  - Roads installed on the Condominium property by the Developer or any third party with the approval of the Developer that have not been dedicated to the State of Florida or a political subdivision thereof.
  - The recreational and other commonly used facilities depicted on the Survey, Graphic Description and Plot Plan.
  - The entrance way improvements.
  - Maintenance in such location as determined by the Developer; and
    - The surface water management system for the land.
    - Any portion or portions of the Condominium property not included in the units or designated a LIMITED COMMON ELEMENT.
- LIMITED COMMON ELEMENTS.** Limited Common Elements mean those Common Elements the use of which is reserved to a certain Unit or Units to the exclusion of other Units, as specified in the Declaration. These include, but are not limited to Parking spaces, Garages, Patios, Balconies, Terraces, Patios, and Louais appurtenant to Units, and Miscellaneous Areas and Equipment as depicted on this exhibit or as stated in the Declaration.
- BUILDING CONSTRUCTION.** The Building is a 4 Story Masonry Construction.



**LEGEND:**

- A/C = AIR CONDITIONER
- (C) = CALCULATED
- CCCL = COASTAL CONSTRUCTION CONTROL LINE
- CONC. = CONCRETE
- DEPT. = DEPARTMENT
- ELEV. = ELEVATION
- FCM = FOUND CONCRETE MONUMENT
- FR = FOUND IRON ROD
- FND = FOUND
- FRK = FOUND PK NAIL
- FN+D = FOUND NAIL & DISK
- LB = LICENSED BUSINESS
- NAUD = NORTH AMERICAN VERTICAL DATUM 1988
- O.R. = OFFICIAL RECORDS
- (P) = PLAT
- POB = POINT OF BEGINNING
- POC = POINT OF COMMENCEMENT
- PLS = PROFESSIONAL LAND SURVEYOR
- R/W = RIGHT-OF-WAY
- (S) = SURVEY
- SR = 5/8" SET IRON ROD LB 3913
- SN+D = SET NAIL & DISK LB 3913
- TR = TYPICAL



**SURVEYOR'S CERTIFICATE:**

I, THE UNDERSIGNED SURVEYOR AND MAPPER DULY AUTHORIZED TO PRACTICE IN THE STATE OF FLORIDA, DO HEREBY CERTIFY ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006, THAT THIS CONDOMINIUM IS NOT SUBSTANTIALLY COMPLETE.

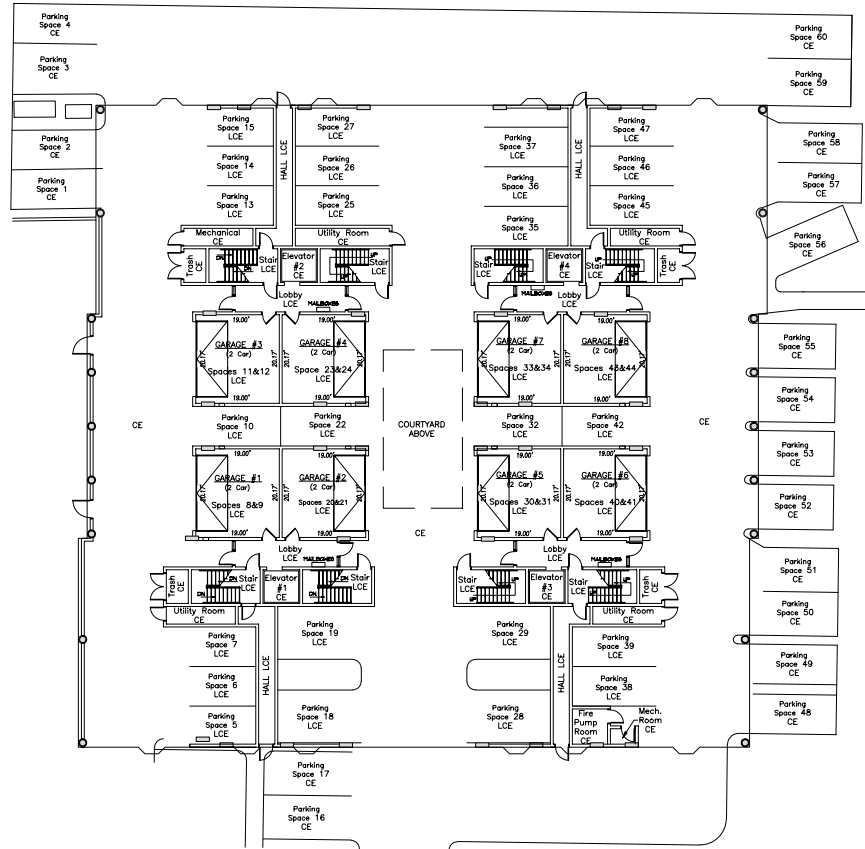
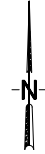
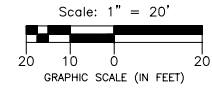
DAVID L. HURLEY, P.S. #3626  
FLORIDA REGISTERED SURVEYOR



8515 Palm River Road  
Tampa, Florida 33619  
Tampa (813) 621-7841  
Fax (813) 664-1832

# BELLA CAPRI, A CONDOMINIUM

SECTION 12 TOWNSHIP 30 SOUTH, RANGE 14 EAST  
CITY OF INDIAN ROCKS BEACH, PINELLAS COUNTY, FLORIDA



**GARAGE**

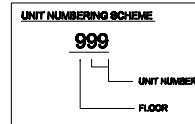
**LEGEND**

CE = COMMON ELEMENT  
LCE = LIMITED COMMON ELEMENT

\*LCE Use of stairways identified as Limited Common Elements is limited to those Units having access above the level shown

| UNIT         | FINISHED FLOOR ELEVATION | CEILING ELEVATION |
|--------------|--------------------------|-------------------|
| Garage floor | 8.60'                    | 17.10'            |

NOTE: ELEVATIONS SHOWN HEREON REFER TO NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988)



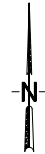
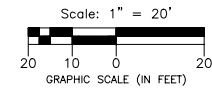
**LANDMARK**  
ENGINEERING & SURVEYING CORPORATION

8515 Palm River Road  
Tampa, Florida 33619  
Tampa (813) 621-7841  
Fax (813) 664-1832



# BELLA CAPRI, A CONDOMINIUM

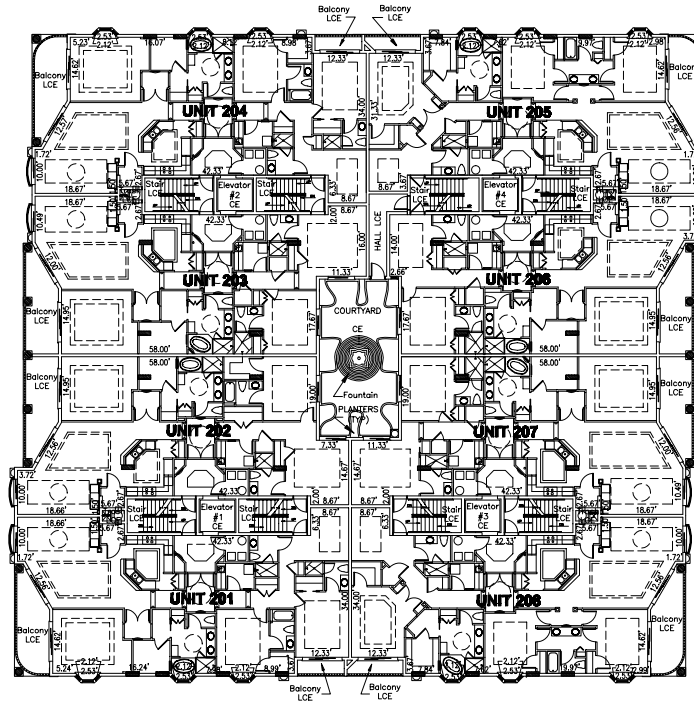
SECTION 12 TOWNSHIP 30 SOUTH, RANGE 14 EAST  
CITY OF INDIAN ROCKS BEACH, PINELLAS COUNTY, FLORIDA



**LEGEND**

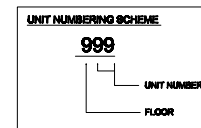
CE = COMMON ELEMENT  
LCE = LIMITED COMMON ELEMENT

\*LCE Use of stairways identified as Limited Common Elements is limited to those Units having access above the level shown



| UNIT | FINISHED FLOOR ELEVATION | CEILING ELEVATION |
|------|--------------------------|-------------------|
| 201  | 19.10                    | 27.60 To 28.60    |
| 202  | 19.10                    | 27.60 To 28.60    |
| 203  | 19.10                    | 27.60 To 28.60    |
| 204  | 19.10                    | 27.60 To 28.60    |
| 205  | 19.10                    | 27.60 To 28.60    |
| 206  | 19.10                    | 27.60 To 28.60    |
| 207  | 19.10                    | 27.60 To 28.60    |
| 208  | 19.10                    | 27.60 To 28.60    |

## SECOND FLOOR

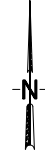
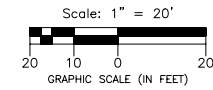


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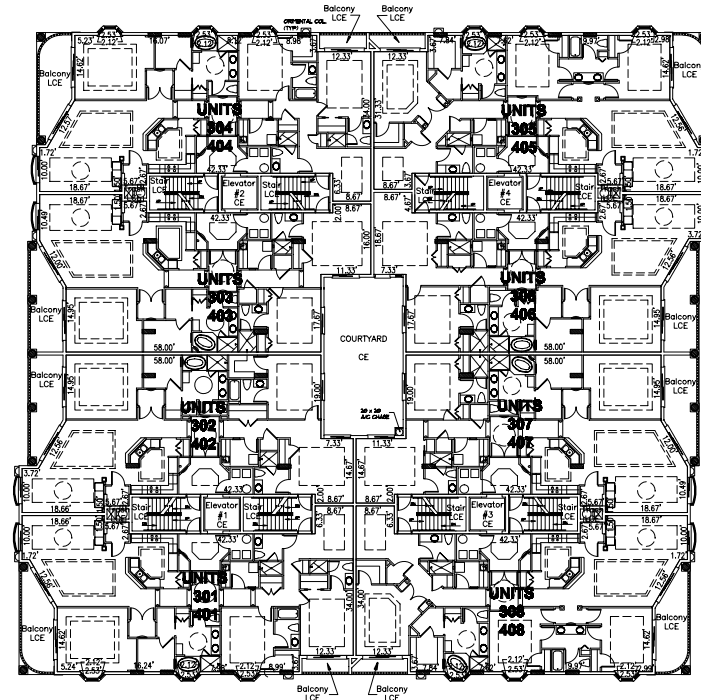
SECTION 12 TOWNSHIP 30 SOUTH, RANGE 14 EAST  
CITY OF INDIAN ROCKS BEACH, PINELLAS COUNTY, FLORIDA



**LEGEND**

CE = COMMON ELEMENT  
LCE = LIMITED COMMON ELEMENT

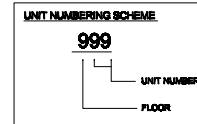
\*LCE Use of stairways identified as Limited Common Elements is limited to those Units having access above the level shown



**THIRD & FOURTH FLOOR**

| UNIT | FINISHED FLOOR ELEVATION | CEILING ELEVATION |
|------|--------------------------|-------------------|
| 301  | 29.60                    | 38.10 To 40.10    |
| 302  | 29.60                    | 38.10 To 40.10    |
| 303  | 29.60                    | 38.10 To 40.10    |
| 304  | 29.60                    | 38.10 To 40.10    |
| 305  | 29.60                    | 38.10 To 40.10    |
| 306  | 29.60                    | 38.10 To 40.10    |
| 307  | 29.60                    | 38.10 To 40.10    |
| 308  | 29.60                    | 38.10 To 40.10    |

| UNIT | FINISHED FLOOR ELEVATION | CEILING ELEVATION |
|------|--------------------------|-------------------|
| 401  | 40.10                    | 48.60 To 50.60    |
| 402  | 40.10                    | 48.60 To 50.60    |
| 403  | 40.10                    | 48.60 To 50.60    |
| 404  | 40.10                    | 48.60 To 50.60    |
| 405  | 40.10                    | 48.60 To 50.60    |
| 406  | 40.10                    | 48.60 To 50.60    |
| 407  | 40.10                    | 48.60 To 50.60    |
| 408  | 40.10                    | 48.60 To 50.60    |

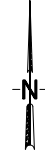
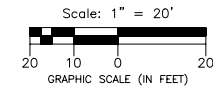


**LANDMARK**  
ENGINEERING & SURVEYING CORPORATION

8515 Palm River Road  
Tampa, Florida 33619  
Tampa (813) 621-7841  
Fax (813) 664-1832

# BELLA CAPRI, A CONDOMINIUM

SECTION 12 TOWNSHIP 30 SOUTH, RANGE 14 EAST  
CITY OF INDIAN ROCKS BEACH, PINELLAS COUNTY, FLORIDA

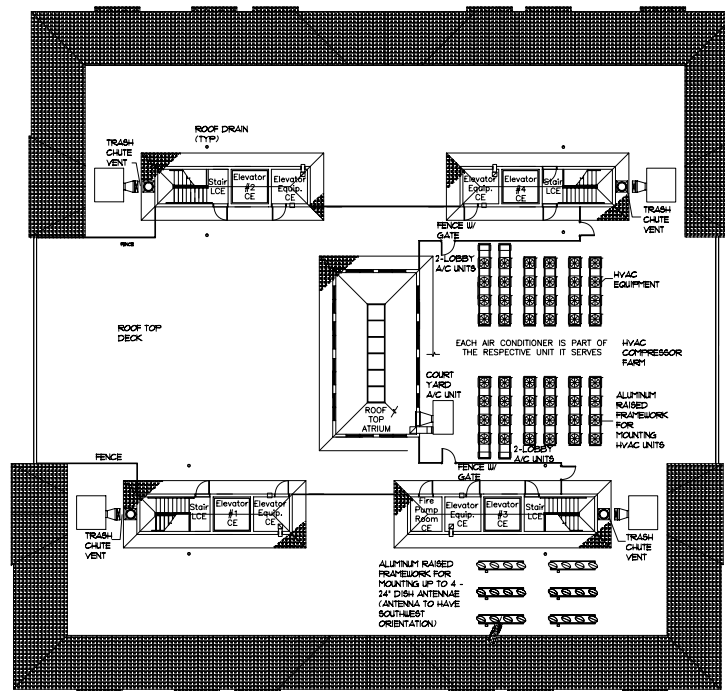


**LEGEND**

CE = COMMON ELEMENT  
LCE = LIMITED COMMON ELEMENT

\*LCE Use of stairways identified as Limited Common Elements is limited to those Units having access above the level shown

| UNIT | TOP OF ROOF DECK | CEILING ELEVATION (STAIR WELL) |
|------|------------------|--------------------------------|
| ROOF | 50.60            | 59.10                          |



**ROOF**



**ROOF TOP ATRIUM**

**LANDMARK**  
ENGINEERING & SURVEYING CORPORATION

8515 Palm River Road  
Tampa, Florida 33619  
Tampa (813) 621-7841  
Fax (813) 664-1832

**EXHIBIT “C”**

**Articles of Incorporation**

**ARTICLES OF INCORPORATION  
OF  
BELLA CAPRI CONDOMINIUM ASSOCIATION, INC.  
(A Corporation Not For Profit)**

The undersigned, for the purpose of incorporating under the laws of the State of Florida a corporation not-for-profit, hereby adopts the following Articles of Incorporation:

**ARTICLE I  
NAME AND REGISTERED OFFICE OF THE CORPORATION**

The name of this corporation, hereinafter called the "Association", shall be Bella Capri Condominium Association, Inc. Its principal place of business shall be at 604 Gulf Boulevard, Indian Rocks Beach, Florida 33785 and its mailing address shall be Post Office Box 1839, Tampa, Florida 33601. Its registered office shall be One Independent Drive, Suite 1300, Jacksonville, Florida 33202. The Board of Directors may from time to time move the principal office of the Association to any other address in the State of Florida.

**ARTICLE II  
PURPOSE AND POWERS**

Section 1. The purpose for which this Association is organized is to act as a governing "Association" within the meaning of the Condominium Act (Chapter 718, Florida Statutes) for Bella Capri, a Condominium (the "Condominium"), located in Pinellas County, Florida. All terms undefined herein appearing in initial capital letters shall have the meaning ascribed to them in the Declaration of Condominium of Bella Capri, a condominium.

Section 2. The Association shall have all of the rights, powers, duties and functions of a governing association as set forth in the Condominium Act now or hereafter in effect, these Articles, and all powers and duties reasonably necessary to administer, govern, and maintain the Condominium pursuant to the Declaration of Condominium as it may be amended from time to time, including but not limited to the following:

(a) To make and collect assessments against members of the Association for the purpose of defraying the charges and expenses of the Condominium and of all other properties the Association shall hold, by whatever means, and operation of the Association. Assessments paid by Unit owners shall be held in trust by the Association and used solely to pay: (1) the cost of repair of the Condominium property and other costs related thereto, and (2) the cost of administration of the affairs of the Association, including payment of applicable taxes and the preservation of the Association's existence, to the extent properly allocable to the performance of the Association's duties under the Declaration of Condominium (all thereof, in the event that the Association undertakes no other activities), and (3) to pay all other common expenses as described in the Declaration of Condominium. To the extent not expended in the year in which paid, assessments shall continue to be held in trust by the Association for the benefit of the members to be expended solely for the aforesaid purposes or, upon any termination of the Condominium, the unexpended portion shall be added to the common surplus

for disbursement to the members or for maintenance reserves, at the discretion of the Board of Directors.

(b) To use the proceeds of assessments in the exercise of its powers and duties.

(c) To maintain, repair, replace and operate all Condominium property.

(d) To purchase insurance upon Condominium property and all properties the Association shall hold and insurance for the protection of the Association and its members.

(e) To improve the Condominium property further and, after casualty, to reconstruct improvements.

(f) To approve or disapprove the transfer, by sale, rental, gift, devise, bequest, succession, or otherwise, and the ownership and encumbrance of Condominium units as may be provided by the Declaration of Condominium and by the Bylaws of the Association.

(g) To enforce by legal means the provisions of the Declaration of Condominium, these Articles, the Bylaws of the Association and the rules and regulations for the use of the property of the Condominium.

(h) To contract for the maintenance, repair, replacement and operation of any and all of the Condominium properties and to delegate to a management contractor or contractors all powers and duties of this Association.

(i) To purchase, lease, receive by gift, or otherwise acquire possessory or use interests in real and personal property, whether or not contiguous to the lands of the Condominium, intended to provide for the enjoyment, recreation or other use or benefit of the members of the Association.

(j) To contract for the management, operation and upkeep of any and all property held or controlled by the Association.

(k) To encumber, mortgage, lease, convey or grant other possessory or use interests in any and all property which the Association may acquire or control, including, but not limited to, any recreational facilities.

(l) To enter into contracts or agreements for the maintenance of accounting and bookkeeping records and for the use of data processing facilities or services, so as to carry out the Association's responsibilities and to comply with the requirements of the law of the State of Florida with regard to maintenance of records.

(m) To select depositories for the Association funds.

(n) To enter into such other contracts or agreements reasonably necessary or convenient for the proper exercise of the rights, powers, duties and functions of the Association.

(o) To employ all personnel reasonably necessary to perform the services required for proper exercise of the rights, powers, duties and functions of the Association.

(p) To exercise any and all common law and statutory powers, although not specifically recited above, of a corporation not for profit, and of an association within the meaning of the Condominium Act, reasonably necessary or convenient to carry out and perform the purpose for which the Association is organized and its enumerated powers.

(q) To enact and enforce rules and regulations concerning the use and enjoyment of the Units, the Common Elements and of the property owned by the Association, including but not limited to rules and regulations pertaining to use of the parking facilities (including the designation of certain spaces for the benefit of particular Unit owners).

(r) To operate and maintain the Common Elements.

(s) The Association, when authorized by a vote of two-thirds (2/3) of the total vote of the members of said Association, may purchase and/or acquire and enter into agreements, from time to time, whereby it acquires leaseholds, memberships and other possessory or use interests in lands or facilities, including but not limited to country clubs, golf courses, marinas and other recreational facilities, whether or not contiguous to the lands of the Community intended to provide for the enjoyment, recreation and other use or benefit of the Unit Owners. The expense of ownership, rental fees, operations, replacements and other undertakings in connection therewith shall be Common Expenses, together with all other expenses and costs herein or by law defined as Common Expenses.

(t) All powers of the Association conferred by the Declaration and Bylaws are incorporated into these Articles by reference.

Section 3. Any officer or director individually or any firm or corporation of which any officer or director shall be a member, stockholder, officer, director, employee, or agent, may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of this Association, provided that the fact that he or such firm or corporation is so interested shall be disclosed or shall have been known to the Board of Directors or a majority thereof, prior to the making thereof. No contract or other transaction between this Association and any other such person, firm, or corporation, and no act of this Association shall in any way be affected or invalidated thereby. Any director of this Association who is also a director or officer of such other corporation or who is so interested may be counted in determining the existence of a quorum at any meeting of the Board of Directors of this Association, which shall authorize any such contract or transaction with like force and effect as if he were not a director or officer of such other corporation or not so interested.

Section 4. Emergency Powers. The following shall apply to the extent not viewed to be in conflict with the Condominium Act:

(a) In anticipation of or during any emergency defined in section (e) below, the Board of Directors of the Association may:

- (1) Modify lines of succession to accommodate the incapacity of any director, officer, employee or agent of the Association; and
  - (2) Relocate the principal office or designate alternative principal offices or authorize the officers to do so.
- (b) During any emergency defined in section (e) below:
- (1) Notice of a meeting of the Board of Directors needs to be given only to those directors whom it is practical to reach and may be given in any practical manner, including by publication and radio;
  - (2) One or more officers of the Association present at a meeting of the Board of Directors may be deemed to be directors for the meeting, in order of rank and within the same rank and order of seniority, as necessary to achieve a quorum; and
  - (3) The director or directors in attendance at a meeting shall constitute a quorum.
- (c) Corporate action taken in good faith during an emergency under this section to further the ordinary affairs of the Association:
- (1) Binds the Association; and
  - (2) May not be used to impose liability on a director, officer, employee or agent of the Association.
- (d) An officer, director, or employee of the Association acting in accordance with any emergency by-laws is only liable for willful misconduct.
- (e) An emergency exists for purposes of this section if a quorum of the Association's directors cannot readily be assembled because of some catastrophic event.

**ARTICLE III**  
**QUALIFICATION OF MEMBERS**  
**AND THE MANNER OF THEIR ADMISSION**

Section 1. The subscribers constitute the sole members of this Association until the recording of a Declaration of Condominium naming this Association as the association thereunder. Upon the recording of such a Declaration of Condominium, Indian Rocks Beach Development, LLC, a Florida limited liability company (the "Developer"), shall own all memberships in the Association. At such time as the purchase price is paid and the deed to a Unit is issued, the Owner thereof shall become a member.

Section 2. Ownership of a Unit shall be a prerequisite to exercising any rights as a member. A Unit may be owned by one or more persons or by a corporation, association, partnership, or trust.



Section 3. Membership shall not be transferable, except as provided herein or in the Declaration of Condominium. The membership of any Unit owner shall terminate upon the termination of the Condominium, or upon transfer of his ownership in the Unit, provided the transfer is accomplished in accordance with all provisions of the Declaration of Condominium. The transferor's membership shall automatically transfer and be vested in the new owner succeeding to the ownership interest in the Unit, subject to a lien thereon for all undischarged assessments, charges, and expenses. The Association may rely on a recorded deed as evidence of transfer of a Unit and thereupon terminate the transferor's membership and recognize the membership of the transferee.

**ARTICLE IV**  
**TERM OF EXISTENCE**

The Association shall have perpetual existence.

**ARTICLE V**  
**NAME AND RESIDENCE OF THE SUBSCRIBER**

The name and address of the subscriber to these Articles is as follows:

| <u>Name</u>      | <u>Address</u>   |
|------------------|--|
| Thomas M. Little | 100 North Tampa Street<br>Suite 2700<br>Tampa, Florida 33602 |

**ARTICLE VI**  
**OFFICERS**

Section 1. The officers of the Association shall consist of a president, one or more vice-presidents, a secretary, a treasurer, and any assistants to such officers as the Board of Directors may deem appropriate from time to time. The same person may hold two offices.

Section 2. The names of the officers who are to serve until the first election are:

| <u>Name</u>     | <u>Office</u>                             | <u>Address</u>                               |
|-----------------|---|--|
| Sean Somerfield | President                                 | Post Office Box 1839<br>Tampa, Florida 33601 |
| David A. Custer | Vice President and<br>Secretary/Treasurer | Post Office Box 1839<br>Tampa, Florida 33601 |

Section 3. Officers of the Association shall be elected at each annual meeting of the Board of Directors and shall hold office at the pleasure of the Board of Directors. Any officer may be removed at any meeting by the affirmative vote of a majority of the members of the Board of Directors either with or without cause, and any vacancy in any office may be filled by the Board of Directors at any meeting thereof.

**ARTICLE VII**  
**BOARD OF DIRECTORS**

Section 1. The affairs and business of this Association shall be managed and conducted by a Board of Directors consisting of not less than three (3) nor more than seven (7) persons; provided, at all times there may only be an odd number of Directors on the Board.

Section 2. The names and addresses of the initial Board of Directors and their terms of office are as follows:

| <u>Name</u>     | <u>Address</u>                               | <u>Term</u> |
|-----------------|--|-------------|
| Sean Somerfield | Post Office Box 1839<br>Tampa, Florida 33601 | 1 year      |
| David A. Custer | Post Office Box 1839<br>Tampa, Florida 33601 | 1 year      |
| Henry R. Suarez | Post Office Box 1839<br>Tampa, Florida 33601 | 1 year      |

Section 3. Election of Directors shall be held at the annual members meeting, except as provided herein to the contrary. At the expiration of the term of each initial director, his successor shall be elected by the members of the Association to serve for a term of one year, subject to Section 7 below. A director shall hold office until his successor has been elected and qualified.

Section 4. The election shall be by written ballot or voting machine and by a plurality of the votes cast, each person voting being entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting. Notwithstanding the foregoing, the Association may, by the affirmative vote of a majority of the total voting interests, provide for different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

Section 5. Directors may be removed with or without cause and replaced as follows:

(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, provided that all vacancies in directorships to which the directors were appointed by the Developer pursuant to the provisions of Article VII, Section 7, 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 from office with or without cause by the vote or agreement in writing by a majority of all the voting interest. A special meeting of the Unit Owners to recall a member or members of the Board may be called by ten percent (10%) of the voting interest giving notice of the meeting as required for a meeting of the Unit Owners, and the notice shall state the purpose of the meeting.

- (1) If the recall is approved by a majority of all voting interests at a meeting, the recall will be effective as provided herein. The Board shall duly notice and hold a Board meeting within five (5) full business days of the adjournment of the Unit Owner meeting to recall one or more Board members. At the meeting, the Board shall either certify the recall, in which case such member or members shall be recalled effective immediately and shall turn over to the Board within five (5) full business days any and all records and property of the Association in their possession or shall proceed as set forth in Subsection (iii) below.
- (2) If the proposed recall is by an agreement in writing by a majority of all voting interest, the agreement in writing or a copy thereof shall be served on the Association by certified mail or by personal service in the manner authorized by Chapter 48 and the Florida Rules of Civil Procedure. The Board shall duly notice and hold a meeting of the Board within five (5) full business days after receipt of the agreement in writing. At the meeting, the Board shall either certify the written agreement to recall a member or members of the Board, in which case such member or members shall be recalled effective immediately and shall turn over to the Board within five (5) full business days any and all records and property of the Association in their possession or proceed as described in Subsection (iii) below.
- (3) If the Board determines not to certify the written agreement to recall a member or members of the Board, or does not certify the recall by a vote at a meeting, the Board shall, within five (5) full business days after the meeting, file with the Division a petition for arbitration pursuant to the procedures set forth in Article X of the Bylaws. For purposes of this section the Unit Owners who voted at the meeting or who executed the agreement in writing shall constitute one party in the petition for arbitration. If the arbitrator certifies the recall as to any member or members of the Board meeting, the recall will be effective upon mailing of the final order of arbitration to the Association. If the Association fails to comply with the order of the arbitrator, the Division may take action pursuant to Section 718.501, Florida Statutes. Any member or members still recalled shall deliver to the Board any and all records of the Association in their possession within five (5) full business days of the effective date of the recall.
- (4) If a vacancy occurs on the Board as a result of a recall and less than a majority of the Board members are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining directors, notwithstanding any provision to the contrary contained in this subsection. If vacancies occur on the Board as a result of a

recall and a majority or more of the Board members are removed, the vacancies shall be filled in accordance with the procedural rules adopted by the Division.

- (5) If the Board fails to duly notice and hold a Board meeting within five (5) full business days of service of an agreement in writing or within five (5) full business days of the adjournment of the Unit Owner recall meeting, the recall shall be deemed effective, and the Board members so recalled shall immediately turn over to the Board any and all records and property of the Association.

(c) Anything to the contrary herein notwithstanding, until a majority of the Directors are elected by the 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 the 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 Bylaws, any Owner may apply to the Circuit Court within the jurisdiction where the Condominium lies for the appointment of a receiver to manage the affairs of the Association. At least thirty (30) days prior to applying to the Circuit Court, the Unit Owner shall mail to the Association and post in a conspicuous place on the Condominium Property a notice describing the intended action and giving the Association an opportunity to fill the vacancies in accordance with these Bylaws. If, during such time, the Association fails to fill the vacancies, the Unit Owner may proceed with the petition. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs and attorneys' fees. The receiver shall have all powers and duties of a duly constituted Board of Directors, and shall serve until the Association fills the vacancies on the Board of Directors sufficient to constitute a quorum in accordance with these Bylaws.

Section 6. Meetings of the Board of Directors at which a quorum of the members is present shall be open to all Association members. Any Association member may tape record or videotape meetings of the Board of Directors subject to reasonable rules adopted by the Division of Florida Land Sales, Condominiums and Mobile Homes. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The Board of Directors may adopt reasonable rules governing the frequency, duration, and manner of Unit owner statements. Adequate notice of all meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the Condominium property at least 48 continuous hours preceding the meeting, except in an emergency. However, written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding Unit use will be proposed, discussed, or approved, shall be mailed or delivered to Association members and posted conspicuously on the Condominium property not less than fourteen (14) days prior to the meeting. Evidence of compliance with those 14-day notice requirement shall be made by an affidavit executed by the secretary and filed among the official records of the Association. Upon notice to the Association members, the board shall by duly adopted rule designate a specific location on the Condominium property upon which all notices of board meetings shall be posted. Notice of any meeting in

which regular assessments against Unit Owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. Meetings of a committee to take final action on behalf of the Board or make recommendations to the Board regarding the Association budget are subject to the provisions of this paragraph. Meetings of a committee that does not take final action on behalf of the Board or make recommendations to the Board regarding the Association budget are not subject to the provisions of this paragraph.

Section 7. Proviso. Notwithstanding anything to the contrary contained in Article VII or otherwise, the Board of Directors shall consist of three directors during the period that the Developer is entitled to appoint a majority of the directors, as hereinafter provided. The Developer shall have the right to appoint all of the members of the Board of Directors until the Unit Owners other than the Developer own fifteen (15%) percent or more of the Units that will be operated ultimately by the Association. When the Unit Owners other than the Developer own fifteen percent (15%) or more of the Units that will be operated ultimately by the Association, the Unit Owners other than the Developer shall be entitled to elect not less than one-third (1/3) of the members of the Board of Directors. Upon the election of such director(s), the Developer shall forward to the Division of Florida Land Sales and Condominiums the name and mailing address of the director(s) elected. The Unit Owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Directors:

(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; or

(e) seven (7) years after the recordation of the Declaration of Condominium, 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 will be operated ultimately by the Association.

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

**ARTICLE VIII**  
**INDEMNIFICATION OF**  
**OFFICERS AND DIRECTORS**

All officers and directors shall be indemnified by the Association against all expenses and liabilities, including counsel fees (including fees for appellate proceedings), reasonably incurred in connection with any proceeding or settlement thereof in which they may become involved by reason of holding such office, other than proceedings or claims resulting from willful misconduct or bad faith. The Association may purchase and maintain insurance on behalf of all officers and directors against any liability asserted against them or incurred by them in their capacity as officers or directors or arising out of their status as such.

**ARTICLE IX**  
**BYLAWS**

The Bylaws of the Association are to be made or approved by the Board of Directors initially and thereafter may be amended, altered, modified, or rescinded by the action or approval of the members of the Association, except that any such change of the Bylaws shall not affect the rights or interests of the Developer, or its successors or assigns, without the written consent of the Developer. Amendment of the Bylaws shall also be subject to the written consent of mortgagees of the Condominium property or Condominium Units in accordance with the provisions of the Declaration of Condominium. The manner of altering, modifying, amending or rescinding the Bylaws shall be provided for in the Bylaws.

**ARTICLE X**  
**AMENDMENTS TO THESE ARTICLES**

Section 1. Amendments to these Articles of Incorporation shall be proposed by a resolution adopted by a two-thirds (2/3) vote of the Board of Directors. The resolution shall then be presented to the membership of the Association. A majority vote of the voting interests cast at a duly called meeting shall be necessary to amend the Articles of Incorporation.

Section 2. No amendment shall make any change in the qualifications for membership without approval in writing of all members. Such an amendment shall also be subject to the written consent of all record holders of mortgages upon any Condominium property or upon property held by the Association in accordance with the provisions of the Declaration of Condominium. No amendment shall be made that is in conflict with the Condominium Act or the Declaration of Condominium, or which in any way would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer under these Articles, the Bylaws or the Declaration.

**ARTICLE XI**  
**VOTING**

Section 1. Each Condominium Unit shall be entitled to one vote at the Association meetings, notwithstanding that the same owner may own more than one Unit or that Units may be joined together and occupied by one owner. In the event of a joint ownership of a

Condominium Unit, the vote to which that Unit is entitled may be exercised by one of such joint owners by agreement of the remainder of the joint owners and in accordance with the terms of the Declaration of Condominium; however, no split voting shall be permitted.

Section 2. Votes may be cast either in person or by proxy as specifically provided herein. Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with Section 718.112(2)(f)2, Florida Statutes; for votes taken to waive financial statement requirements as provided by Section 718.111(13), Florida Statutes; for votes taken to amend the Declaration of Condominium pursuant to Section 718.110, Florida Statutes; for votes taken to amend these Articles of Incorporation or the Bylaws of the Association pursuant to Section 718.112, Florida Statutes; and for any other matter for which the Condominium Act requires or permits a vote of the Unit owners. General proxies may be used for other matters for which limited proxies are not required and may also be used in voting for non-substantive changes to items for which a limited proxy is required and given. Notwithstanding the foregoing, no proxy, limited or general, shall be used in the election of the members of the Board of Directors. 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. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully 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 is revocable at any time at the pleasure of the Association member executing it.

## **ARTICLE XII** **ADDITIONAL PROVISIONS**

Section 1. No officer, director or member shall be personally liable for any debt or other obligation of the Association, except as provided in the Declaration of Condominium.

Section 2. The Association shall not be operated for profit. No dividend shall be paid, and no part of the income of the Association shall be distributed to its members, directors, or officers.

Section 3. Where the context of these Articles permits, the use of the plural shall include the singular and the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

## **ARTICLE XIII** **SEVERABILITY**

Should any paragraph, sentence, phrase, portion or provision of these articles or of the Bylaws or rules and regulations be held invalid, it shall not affect the validity of the remaining instruments.

## **ARTICLE XIV** **SURFACE WATER MANAGEMENT SYSTEM**

It is the intention that the Association shall have perpetual existence; however, if the Association elects to dissolve, it will only do so after the maintenance of the property consisting

of the surface water management system has become the responsibility of an appropriate agency of local government, and if not accepted, then when the surface water management system has been dedicated to a similar nonprofit corporation.

**ARTICLE XV**  
**APPOINTMENT OF**  
**REGISTERED AGENT FOR SERVICE OF PROCESS**

Pursuant to Section 48.091, Florida Statutes, F & L Corp with an address of One Independent Drive, Suite 1300, Jacksonville, Florida 33202, is appointed registered agent for service of process upon the Association.

IN WITNESS WHEREOF, the subscribing incorporator has hereunto set his hand and seal and caused these Articles of Incorporation to be executed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Thomas M. Little



**ACCEPTANCE BY REGISTERED AGENT**

The undersigned, having been designated as agent for service of process within the State of Florida upon Bella Capri Condominium Association, Inc., at the place designed in Article XV of the foregoing Articles of Incorporation, does hereby accept the appointment as registered agent for the Corporation.

F & L CORP

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its:           Vice President

**EXHIBIT "D"**

**Bylaws**

**BYLAWS**  
**OF**  
**BELLA CAPRI CONDOMINIUM ASSOCIATION, INC.**  
**(A Corporation Not-For-Profit)**

**ARTICLE I**  
**GENERAL**

Section 1. The address and term of existence of **BELLA CAPRI CONDOMINIUM ASSOCIATION, INC.** (the “Association”) shall be as set forth in the Articles of Incorporation.

Section 2. The Association shall have the rights, powers, duties and functions as set forth in the Articles of Incorporation.

Section 3. The members of the Association, their qualifications and voting rights and the manner of transferring membership shall be as set forth in the Articles of Incorporation.

Section 4. All undefined terms appearing in initial capital letters shall have the meanings ascribed to them in the Declaration of Condominium of Bella Capri, a condominium.

**ARTICLE II**  
**MEETINGS**

Section 1. All annual and special meetings of the Association shall be held in Pinellas County, Florida, or at such other place as may be permitted by law and from time to time fixed by the Board of Directors and designated in the notices of meetings.

Section 2. Annual meetings of the members of the Association shall be held upon a date appointed by the Board of Directors, which shall fall between the 1st day of October and the 31st day of December of each and every calendar year subsequent to incorporation. The meetings shall be held at such time as the Directors shall appoint from time to time. Notice of the meeting, which shall include an agenda, shall be sent by mail or hand delivered to each member at least fourteen (14) days prior to the annual meeting. In addition to such written notice, the secretary shall conspicuously post notice of the annual meeting at least fourteen (14) continuous days prior thereto on the property of Bella Capri, a Condominium (the “Condominium”), at a specific location designated by a rule duly adopted by the Board of Directors upon which shall be posted notice of all meetings of members of the Association. An officer of the Association or the manager or other person providing notice of the Association meeting shall provide an affidavit or United States Postal Service Certificate of Mailing to be included in the official records of the Association affirming that the notice was mailed or hand delivered to each member at the address last furnished to the Association.

Section 3. Special meetings of the members, for any purpose or purposes, whether or not specifically required by these Bylaws, the Articles of Incorporation, or the Declaration of Condominium, may be called by the President or upon written application to the Board of

Directors of seventy-five percent (75%) of the members or by a majority of the Directors. A special meeting of the members to recall a member or members of the Board of Directors may be called by ten percent (10%) of the members. Such special meeting of the members shall be set within thirty (30) days after such written application upon not less than ten (10) days' written notice to each of the members. In addition to such written notice, the secretary shall conspicuously post continuous notice of the special meeting at least ten (10) days prior thereto at the specific location as provided in Section 2 above.

Section 4. The Board of Directors shall mail or hand deliver to each Unit Owner at the address last furnished to the Association a meeting notice and copies of the agenda and the proposed annual budget of common expenses to the members at least fourteen (14) days prior to the meeting of the Unit Owners or the Board of Administration at which the budget will be considered. Evidence of compliance with this fourteen (14) day notice requirements must be made by an affidavit executed by an officer of the Association or the manager or other person providing notice of the meeting, and filed among the official records of the Association. In addition to such written notice, the secretary shall conspicuously post continuous notice of the meeting at least fourteen (14) days prior thereto at the specific location as provided in Section 2 above. The meeting to consider the budget must be open to the members. The budget may be adopted by the Board of Directors. Notwithstanding the foregoing, if an adopted budget requires assessments against the members in any fiscal year or calendar year which exceeds 115 percent of the assessments for the preceding year, within twenty-one (21) days after adoption of the annual budget and upon written application to the Board of Directors of ten percent (10%) of the members, the President shall call a special meeting of the members within sixty (60) days after adoption of the annual budget. Notice of the special meeting shall be hand delivered or mailed to each member at least fourteen (14) days prior to said meeting. At the special meeting, members shall consider and enact a budget. If the adoption of the budget by the members is necessary, the adoption of the budget requires a vote of not less than a majority vote of all the voting interests. The Board of Directors may propose a budget to the members at a meeting of members or in writing, and if the budget or proposed budget is approved by the members at the meeting or by a majority of all the voting interests in writing the budget is adopted. If a meeting of the members has been called and a quorum is not attained or a substitute budget is not adopted by the members, the budget adopted by the Board of Directors shall go into effect as scheduled. In determining whether assessments exceed 115 percent of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the Condominium Property, anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis or assessments for betterments to the Condominium Property shall be excluded from the computation. However, as long as the Developer is in control of the Board of Directors, the Board of Directors shall not impose an assessment for any year greater than 115 percent of the prior fiscal or calendar year's assessment without approval of a majority of all the voting interests.

Section 5. No business shall be transacted at any special meeting except as stated in the notice thereof unless by vote of not less than two-thirds (2/3) of the voting interests of those present and voting. Notice shall be given by the Secretary of all special meetings, or if the Secretary shall fail to do so, by the President or Board of Directors, not less than ten (10) days before the date thereof, stating the date, time, and place of the meeting and the purpose or purposes thereof. Notices deposited in the mail, postage prepaid, and addressed to the members'

last known addresses according to the Association's records, within the prescribed time or, in lieu of mailing, delivered by hand to the members or left at their residences in their absence, shall suffice. In addition to such written notice, the Secretary shall conspicuously post continuous notice of the meeting at least ten (10) days prior thereto at the specific location as provided in Section 2 above. Members may waive such notice and may act by unanimous written agreement without meetings, for any matter not prohibited by Chapter 617 or Chapter 718, Florida Statutes.

Section 6. Persons entitled to at least a majority of the voting interests shall constitute a quorum but members present at any meeting, although less than a quorum, may adjourn the meeting to a future date.

Section 7. When a quorum is present at any meeting, the holders of a majority of the voting interests present in person or represented by written proxy as provided in Article XII, Section 2 of the Articles of Incorporation shall decide any question brought before the meeting, unless the question is one upon which by express provision of the Condominium Act, the Declaration of Condominium, the Articles of Incorporation, or these Bylaws, a different vote is required, in which case the vote prescribed by the Declaration of Condominium, the Articles of Incorporation, these Bylaws or the Condominium Act shall control.

Section 8. The order of business at all meetings shall be as prescribed in the agenda prepared by the Board of Directors and submitted to the members with the notice of each meeting, including but not limited to making the collection of election ballots the first order of business at the meeting.

Section 9. Members shall have a right to participate in meetings of members with reference to all designated agenda items. However, the Association may adopt reasonable rules governing the frequency, duration and manner of member participation.

Section 10. Any member may tape record or videotape a meeting of the members subject to reasonable rules adopted by the Division of Florida Land Sales, Condominiums and Mobile Homes.

### **ARTICLE III BOARD OF DIRECTORS**

Section 1. The number, terms of office, and provisions regarding removal and filling of vacancies of the Board of Directors shall be as set forth in the Articles of Incorporation.

Section 2. The annual meeting of the Board of Directors shall be held immediately following the annual meeting of the members and at the same place.

Section 3. Regular meetings of the Board of Directors may be held at such time and place permitted by law and from time to time as may be determined by the Directors, and special meetings may be called by the President or a majority of the Board of Directors. Notice of regular meetings and special meetings of the Board of Directors shall be given to each Director by telegram or hand delivered or by United States mail sent at least three (3) days prior to the meeting as provided in Section 2 except as otherwise provided herein. The Board of Directors

may, by resolution duly adopted, establish regular monthly, or semi-annual meetings in which event no notice need be sent to the Directors, once, said schedule has been adopted. All meetings of the Board of Directors shall be open to the members of the Association, who shall be given conspicuously posted continuous notice forty-eight (48) hours in advance thereof except in an emergency. Notwithstanding the foregoing, written notice of any meeting at which non-emergency special assessments or at which an amendment to the rules regarding unit use will be proposed, discussed or approved, shall be mailed or delivered to members and conspicuously posted on the condominium property as provided in Article II, Section 2, above, not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen (14) day notice requirement shall be made by an affidavit executed by the Secretary and filed among the official records of the Association.

Section 4. At all meetings of the Board of Directors, a majority shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority present at any meeting shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute or by the Articles of Incorporation. At any meeting of the Board of Directors at which a quorum is not present, the presiding officer may adjourn the meeting from time to time. Directors may not vote by proxy or by secret ballot at board meetings, except that officers may be elected by secret ballot. A vote or abstention for each Director present shall be recorded in the minutes.

Section 5. The order of business of all meetings of the Board of Directors shall be as prescribed in an agenda furnished each member of the Board of Directors by the President.

Section 6. The Board of Directors shall have and exercise all lawful powers and duties necessary for the proper conduct and administration of the affairs of the Association and for the exercise of its rights, powers, duties and functions. The Board of Directors may do or cause to be done all other lawful acts and things that are not by law, the Declaration of Condominium, these Bylaws or the Articles of Incorporation or otherwise, directed or required to be done or exercised by the members of the Association.

Section 7. The Board of Directors elected by the members shall be elected by written ballot or voting machine. Proxies shall not be used in electing the Board of Directors, either in general elections or elections to fill vacancies caused by recall, resignation or otherwise, unless otherwise permitted by Chapter 718, Florida Statutes, the Condominium Act. Not less than sixty (60) days before a scheduled election, the Association shall mail or deliver, whether by separate Association mailing so included in another Association mailing or delivery including regularly published newsletters, to each member a first notice of the date of the election. Any member desiring to be a candidate for the Board of Directors must give written notice to the Association not less than forty (40) days before a scheduled election. Together with the written notice and agenda set forth in Article II, Section II hereof, the Association shall mail or deliver a second notice of election to all Unit Owners entitled to vote thereon, together with a ballot which shall list all candidates. Upon request of a candidate, the Association shall include an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate not less than thirty-five (35) days before the election, to be included with the mailing of the ballot, with the costs of mailing and copying to be borne by the Association. However, the Association shall have no liability for the contents of the information sheets prepared by the candidates. Elections

shall be decided by a plurality of those ballots 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 Directors. No member shall permit any other person to vote his ballot, and any such ballots improperly cast shall be deemed invalid. A member who needs assistance in casting the ballot for the reasons stated in Section 101.051, Florida Statutes, may obtain assistance in casting the ballot. Any member violating this provision may be fined by the Association in accordance with Section 718.303, Florida Statutes. The regular election shall occur on the date of the annual meeting as set forth in Article II, Section 2. Notwithstanding the provisions of this subparagraph, an election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the Board of Directors. With respect to recall and replacement of Board of Director members elected or appointed by Unit Owners other than the Developer, the following provisions shall apply:

(a) Only Units owned by Unit Owners other than the Developer shall be counted to establish a quorum at a meeting to recall and replace a Board of Director member elected by Unit Owners other than the Developer.

(b) The percentage of voting interests required to recall a Board of Director member elected by Unit Owners other than the Developer, is a majority of the total Units owned by Unit Owners other than the Developer.

(c) A Board of Director member who is elected by Unit Owners other than the Developer may be recalled only by Unit Owners other than the Developer at a duly called meeting or by an agreement in writing by a majority of all voting interests.

Only Unit Owners other than the Developer may vote, in person or by limited proxy ( subject to (c) above), to fill a vacancy on the Board of Directors previously occupied by a Board of Director member elected by Unit Owners other than the Developer.

#### **ARTICLE IV OFFICERS**

Section 1. The officers of the Association, their terms of office, the manner of election, and the method of removal and filling vacancies shall be as set forth in the Articles of Incorporation.

Section 2. The President shall be the chief executive officer of the Association and shall preside at all meetings of the members and the Board of Directors. He or she shall have the general powers and duties usually vested in the office of President, including but not limited to, the power to appoint committees from among the members or Directors from time to time as he or she may deem appropriate to assist in the conduct of the affairs of the Association and to call meetings of the Board of Directors and of the members. He or she shall execute such deeds, contracts, and other instruments, in the name and on behalf of the Association and under its corporate seal, when a seal is required, except when such documents are required or permitted by law to be otherwise executed and except when the signing and execution thereof shall be delegated by the Board of Directors to another officer or agent of the Association.

Section 3. The Secretary shall attend all meetings of the Board of Directors and all meetings of the members and record all votes and the minutes of all meetings and proceedings, including resolutions, in a minute book to be kept for that purpose, and shall perform like duties for any committee when so required. The Secretary shall have charge of the minute book and such records and papers as the Board of Directors may direct and shall perform all duties incident to the office of Secretary, including the sending of notices of meetings to the members of the Board of Directors and committees, and such other duties as may be prescribed by the Bylaws or by the Board of Directors or the President. He or she shall also have custody of the corporate seal and when authorized by the Board of Directors, affix the same to any instrument requiring it and attest the same when appropriate. He or she shall comply and keep up to date, at the principal office of the Association, a complete list of the members and their last known office addresses, and the names and addresses of any proxy holders. The Secretary shall make the minute books available for inspection by the members and Directors at all reasonable times.

Section 4. The Vice-President or Vice-Presidents shall be vested with all the powers and required to perform all the duties of the President in his or her absence, and such other duties as may be prescribed by the Board of Directors. In the event there is more than one Vice-President, the Board of Directors may prescribe the order in which the Vice-Presidents shall assume control in the absence of the President.

Section 5. The Treasurer shall have responsibility for the Association's funds and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association and shall deposit all monies, checks, and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors. He or she shall disburse the funds of the Association as may from time to time be ordered by the Board of Directors or by the President, shall make proper vouchers for such disbursements, and shall render to the President and the Board of Directors, at the regular meetings of the Board of Directors or whenever they or either of them shall require, an account of his or her transactions as Treasurer of the financial condition of the Association. He or she shall, in addition, keep all books and records of account as may be required by Section 718.111, *Florida Statutes*, and other sections of the Condominium Act or any other applicable law. Within twenty-one (21) days after the final financial report is completed by the Association or received from the third party, but not later than 120 days after the end of the fiscal year, the Association shall mail to each member at the address last furnished to the Association by the member, or hand deliver to each member, a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the member, without charge, upon receipt of a written request from the member.

**ARTICLE V**  
**MANNER OF COLLECTING FROM THE**  
**UNIT OWNERS THEIR SHARES OF THE COMMON EXPENSES**

Section 1. The Association shall collect from the members their respective shares of the common expenses in accordance with the procedure prescribed in the Declaration of Condominium. Assessments shall be determined, imposed, utilized and enforced as provided for in the Declaration of Condominium. The Board of Directors has the power to and shall from time to time fix and determine the amounts necessary to pay all the expenses of the Association



and establish reasonable budgets therefor from time to time, all in accordance with the terms of the Declaration of Condominium.

Section 2. Regular assessments shall be paid by the members on a monthly basis, unless the membership shall approve a different period of payment, but in no event shall such payment be less frequent than quarterly.

Section 3. When the Board of Directors has determined the amount of any assessment, the Secretary shall transmit a statement of such assessment to each member. Assessments are payable at the office of the Association or such other place as the Board of Directors determines.

Section 4. Regular and special assessments are necessarily made upon projections and estimates of the Board of Directors, and may be in excess of or less than the sums required to meet the cash requirements of the Association, in which event the Board of Directors may increase or decrease the amount of such an assessment and make such adjustments, in cash or otherwise, as it shall deem proper, including the assessment of each member of his or her proportionate share of any deficiency. Notice of all changes in the assessments shall be given to all members. Assessments are due on the dates stated in the Notice of Assessment, and thereafter may bear interest to the rate established by the Board of Directors which shall not exceed the highest lawfully permissible rate.

Section 5. In the event an assessment is not paid within the time permitted therefore in the Declaration of Condominium, and these Bylaws, the Association, through the Board of Directors, may proceed and enforce said assessments from the delinquent member in any manner provided by the law respecting mortgage liens, the Declaration of Condominium, and these Bylaws. Each member shall be individually responsible for the payment of the assessments against his or her unit, due during his or her ownership and for the payment of attorneys' fees and cost incurred by the Association and the collection of sums due and the enforcement of any lien held by the Association respect therefore.

## **ARTICLE VI AUTHORITY OF DIRECTORS**

Section 1. The Board of Directors may from time to time adopt such uniform administrative rules and regulations governing the details of the operation of the condominium, and restrictions upon and requirements respecting the use and maintenance of the units and of the common elements of the condominium as may be deemed necessary and appropriate from time to time to assure the enjoyment of all members and to prevent unreasonable interference with the use of the units and the common elements, as shall not be inconsistent with the Condominium Act, the Declaration of Condominium, the Articles of Incorporation, and these Bylaws. A copy of such regulations shall be furnished to each member and subsequent purchasers of units upon request.

Section 2. In the event of a violation (except for the non-payment of an assessment) of any of the provisions of the Declaration of Condominium, these Bylaws, the Rules and Regulations of the Association or the Articles of Incorporation or of any law, the Association,

after reasonable notice to cure of not less than fifteen (15) days, shall have all rights and remedies provided by law (and such remedies shall or may be cumulative with the remedies set forth in the Declaration of Condominium and the Articles of Incorporation) including without limitation the right to sue for damages, the right to injunctive relief, the right to charge any offending member a fine not to exceed \$100.00 for each violation (except for the non-payment of an assessment) or each day of a continuing violation, after following the procedures described below and, in the event of failure to pay assessments, the right to foreclose its lien provided in the Declaration of Condominium. In every such proceeding the member at fault shall be liable for court costs and the Association's attorneys' fees. If the Association elects to enforce its lien for foreclosure the member may be required to pay a reasonable rent for his or her unit during the litigation and the Association shall be entitled to the appointment of a receiver to collect such rent. A suit to collect unpaid assessments may be prosecuted by the Association without waiving the lien securing such unpaid assessments. In the prosecution of any violation (except for the non-payment of an assessment of the provisions of the Declaration of Condominium these Bylaws, the Rules and Regulations of the Association or the Articles of Incorporation), the Association shall give the offending member written notice of the violation and an opportunity for hearing which shall not occur earlier than fifteen (15) days from the sending of the notice of violation. The hearing must be held before a committee of other unit owners. If the committee does not agree with the fine, the fine may not be levied. The notice of violation shall include the following:

- (a) A statement of the date, time and place of the hearing;
- (b) A statement of the provisions of the Declaration of Condominium, the Bylaws, the Rules and Regulations of the Association or the Articles of Incorporation which have been violated; and
- (c) A short and plain statement of the matters asserted by the Association.

Section 3. The party against whom the charge is sought to be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge and respond to any material considered by the Association.

Section 4. Notwithstanding herein to the contrary, no fine may become a lien against a Unit nor shall any fine be levied except after giving reasonable notice and opportunity for a hearing to the Unit Owners and if applicable, its licensee or invitee, which hearing must be held before a committee of other Unit Owners.

## **ARTICLE VII ANNUAL BUDGET**

Section 1. The fiscal year of the Association shall begin on the first day of January in each year, provided, however, that the Board is authorized to change to a different fiscal year at such times as the Board of Directors deems it advisable.

Section 2. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in Section 718.504(21), *Florida Statutes*.

Section 3. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance which reserve accounts may be waived at a meeting of the unit owners. These accounts shall include, roof replacement, building painting, and pavement resurfacing. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost of each reserve item. The Association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance.

Section 4. If the Association operates and manages more than one condominium, a separate budget shall be adopted for each such condominium, along with a separate budget for the Association and expenses specific to a separate condominium, such as maintenance, repair, replacement of the common elements of said condominium of that separate condominium or shall be provided for in the budget of the specific condominium, rather than the separate budget of the Association, unless the condominiums are consolidated for financial purposes pursuant to Chapter 718, *Florida Statutes*. Further, with regard to the separate budget adopted for each separate condominium, the provision set forth in Article II, Section 4, hereof for calling a special meeting and enacting a budget if an adopted budget requires assessments in excess of 115% of the assessments for the proceeding year, shall apply to each separate budget for each separate condominium, where applicable; and only unit owners of the condominium(s) whose budget is/are being considered at the special meeting called to consider and enact same shall be allowed to vote on the separate budget for their particular condominium.

## **ARTICLE VIII SEVERABILITY**

If any paragraph, sentence, clause, or portion thereof of any provision of these Bylaws shall be held invalid, it shall not affect the validity of the remaining parts thereof.

## **ARTICLE IX AMENDMENT**

Amendments to these Bylaws shall be proposed by a resolution adopted by a two-thirds (2/3) vote of the Board of Directors. The resolution shall then be presented to the membership of the Association. A majority of the voting interest of those members present and voting cast at a duly called meeting shall be necessary to amend the Bylaws.

## **ARTICLE X ARBITRATION**

Any matter of controversy or dispute arising from the operation of the condominium between or among the Developer, members, the Association and their agents and assigns, may be settled by mandatory non-binding arbitration in accordance with the rules provided therefor by

the American Arbitration Association and the laws of the State of Florida, including, without limitation, the procedures set forth in § 718.1255, *Florida Statutes*.

**ARTICLE XI  
CERTIFICATE OF COMPLIANCE**

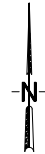
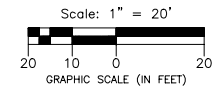
The Board of Directors may accept a certificate of compliance from a licensed electrical or sprinkler contractor as evidence of compliance of the condominium units to the applicable fire and life safety code.

**ARTICLE XII  
UNIT OWNER INQUIRIES**

When a Unit Owner files a written inquiry by certified mail with the Board of Directors of the Association, the Board of Directors shall respond in writing to the Unit Owner within 30 days of receipt of the inquiry. The Board of Directors' response shall either give a substantive response to the inquirer, notify the inquirer that a legal opinion has been requested, or notify the inquirer that advice has been requested from the Division. If the Board of Directors requests advice from the Division, the Board of Directors shall, within 10 days of its receipt of the advice, provide in writing a substantive response to the inquirer. If a legal opinion is requested, the Board of Directors shall, within 60 days after the receipt of the inquiry, provide in writing a substantive response to the inquiry. The failure to provide a substantive response to the inquiry as provided herein precludes the Board of Directors from recovering attorneys' fees and costs in any subsequent litigation, administrative proceeding or arbitration arising out of the inquiry. The Association may through its Board of Directors adopt reasonable rules and regulations regarding the frequency and manner of responding to Unit Owner inquiries, one of which may be the Association is only obligated to respond to one written inquiry per Unit in any given 30-day period. In such a case, any additional inquiry or inquiries must be responded to in the subsequent 30-day period, or periods, as applicable.

# BELLA CAPRI, A CONDOMINIUM

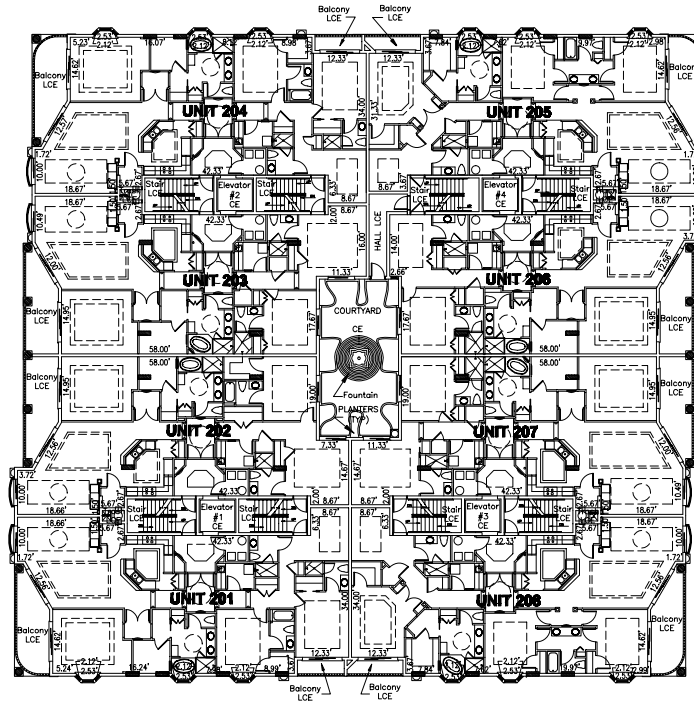
SECTION 12 TOWNSHIP 30 SOUTH, RANGE 14 EAST  
CITY OF INDIAN ROCKS BEACH, PINELLAS COUNTY, FLORIDA



**LEGEND**

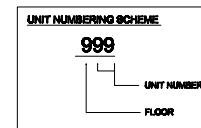
CE = COMMON ELEMENT  
LCE = LIMITED COMMON ELEMENT

\*LCE Use of stairways identified as Limited Common Elements is limited to those Units having access above the level shown



| UNIT | FINISHED FLOOR ELEVATION | CEILING ELEVATION |
|------|--------------------------|-------------------|
| 201  | 19.10                    | 27.60 To 28.60    |
| 202  | 19.10                    | 27.60 To 28.60    |
| 203  | 19.10                    | 27.60 To 28.60    |
| 204  | 19.10                    | 27.60 To 28.60    |
| 205  | 19.10                    | 27.60 To 28.60    |
| 206  | 19.10                    | 27.60 To 28.60    |
| 207  | 19.10                    | 27.60 To 28.60    |
| 208  | 19.10                    | 27.60 To 28.60    |

## SECOND FLOOR

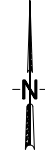
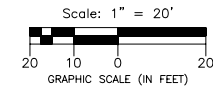


**LANDMARK**  
ENGINEERING & SURVEYING CORPORATION

8515 Palm River Road  
Tampa, Florida 33619  
Tampa (813) 621-7841  
Fax (813) 664-1832

# BELLA CAPRI, A CONDOMINIUM

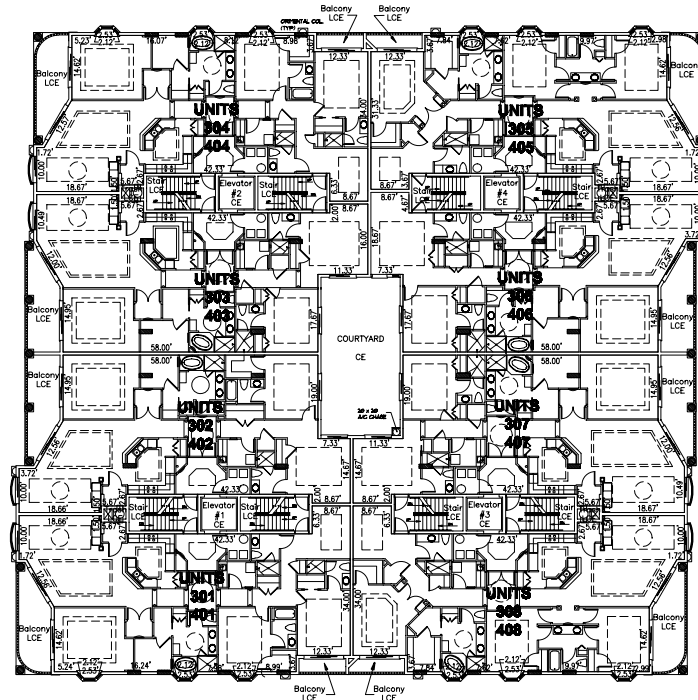
SECTION 12 TOWNSHIP 30 SOUTH, RANGE 14 EAST  
CITY OF INDIAN ROCKS BEACH, PINELLAS COUNTY, FLORIDA



**LEGEND**

CE = COMMON ELEMENT  
LCE = LIMITED COMMON ELEMENT

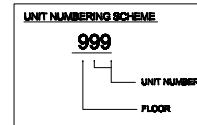
\*LCE Use of stairways identified as Limited Common Elements is limited to those Units having access above the level shown



| UNIT | FINISHED FLOOR ELEVATION | CEILING ELEVATION |
|------|--------------------------|-------------------|
| 301  | 29.60                    | 38.10 To 40.10    |
| 302  | 29.60                    | 38.10 To 40.10    |
| 303  | 29.60                    | 38.10 To 40.10    |
| 304  | 29.60                    | 38.10 To 40.10    |
| 305  | 29.60                    | 38.10 To 40.10    |
| 306  | 29.60                    | 38.10 To 40.10    |
| 307  | 29.60                    | 38.10 To 40.10    |
| 308  | 29.60                    | 38.10 To 40.10    |

| UNIT | FINISHED FLOOR ELEVATION | CEILING ELEVATION |
|------|--------------------------|-------------------|
| 401  | 40.10                    | 48.60 To 50.60    |
| 402  | 40.10                    | 48.60 To 50.60    |
| 403  | 40.10                    | 48.60 To 50.60    |
| 404  | 40.10                    | 48.60 To 50.60    |
| 405  | 40.10                    | 48.60 To 50.60    |
| 406  | 40.10                    | 48.60 To 50.60    |
| 407  | 40.10                    | 48.60 To 50.60    |
| 408  | 40.10                    | 48.60 To 50.60    |

## THIRD & FOURTH FLOOR



**LANDMARK**  
ENGINEERING & SURVEYING CORPORATION

8515 Palm River Road  
Tampa, Florida 33619  
Tampa (813) 621-7841  
Fax (813) 664-1832

## MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT (the "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between **BELLA CAPRI CONDOMINIUM ASSOCIATION INC.**, a Florida corporation not for profit (the "Association"), and **PROFESSIONAL BAYWAY MANAGEMENT COMPANY INC.**, a Florida corporation, (PBM).

### WITNESSETH:

WHEREAS, the Association is a non-profit corporation organized for the administration and operation of **BELLA CAPRI CONDOMINIUM ASSOCIATION INC.** (the "Condominium"); and

WHEREAS, the Association desires to employ a managing agent for said Condominium Association; and

NOW THEREFORE, in consideration of the premises, and of the mutual covenants and other considerations hereinafter set forth, the parties hereto agree as follows:

1. Definitions. The term used in this Management Agreement shall have the meaning as set forth in the Declaration of Condominium and Chapter 718 of the Florida Statutes (the "Condominium Act"), unless the context otherwise requires.
2. Employment. The Association hereby employs PBM and PBM hereby accepts said employment on the terms and conditions provided for in this Management Agreement.
3. Exclusiveness. The management provided for herein shall be exclusively performed by PBM under the direct control and supervision of the Association.
4. Term. The term of this Agreement shall extend from issuance of the certificate of occupancy issued by the City of Indian Rocks Beach for a period of three years and thereafter shall continue in full force and effect from year to year with an increase in rate of 5% annually unless terminated:
  - (a) By notice in writing given by either party of not less than two (2) months
  - (b) Notwithstanding any of the foregoing provisions, this Agreement shall be terminable in accordance with the provisions of Section 718.302, Florida Statutes
5. The Manager Shall:
  - (a) Make a review of all bills received for services, work and supplies ordered in connection with maintaining and operating the Condominium, pay all such bills provided such invoices are approved by the Board or its' representative, including but not limited to water charges, sewer charges and assessments assessed with respect to the Common Elements, if any, as and when the same shall become due and payable by making the required disbursements for the Association, to take advantage of all discounts on behalf of the Association.
  - (b) Bill Unit Owners for Common Expenses and use its best efforts to collect same. In this regard, the Association hereby authorizes PBM to make demand for all regular and special assessments and charges which may be due the Association or PBM, and to assist the Association by way of making, recording, satisfying and foreclosing the Association's lien therefore, or by way of other legal process or otherwise, as may be required for the collection of such assessments. All such collection procedures shall be approved by the Association and all legal action shall be initiated by the Association through the Association's attorney, at the expense of the Association;
  - (c) Shall prepare and file the necessary forms for unemployment insurance, Social Security

taxes, withholding taxes and all other forms, reports and returns required by any federal, state or municipal authority;

(d) Deposit all funds collected from the Unit Owners or otherwise accruing to the Association in a special bank account or accounts of the Association as selected by the PBM, (in which PBM may be an authorized signatory) in a bank or savings and loan association in Pinellas County, Florida, with suitable designation indicating their source, separate from other funds of PBM. In the event interest is earned on any account, such interest shall accrue to the benefit of the Association;

(e) Maintain in accordance with generally accepted accounting standards the books of account, check books, and other records of the Association at PBM's office;

(f) In conjunction with the accountant for the Association, if any, prepare an annual financial report of the operations of the Association for the year then ended. A copy of each annual report shall be sent by PBM to each Unit Owner;

(g) Notify the Unit Owners of annual and all other Assessments for Common Expenses determined by the Board as more particularly set forth in the Bylaw.

(h) Should managerial and or secretarial services be required, a charge of NINETY FIVE DOLLARS (\$95.00) per hour and THIRTY FIVE DOLLARS (\$35.00) per hour respectively will be charged by and payable to PBM.

(i) Maintain records sufficient to describe its services hereunder and such financial books and records, in accordance with prevailing accounting standards sufficient to identify the source of all funds collected by it as Manager and the disbursement there of. Such records shall be kept at the office of PBM and shall be available for inspection by the Unit Owners at reasonable times. These records shall be kept in accordance with Section 718.111(11) of the Condominium Act. The Manager shall perform a continual internal audit of its financial records relative to its services as Manager for the purpose of verifying same, but no independent or external audit shall be required of PBM. The Association shall have the right to an annual external independent audit provided the cost there of and the employment of such auditor be by the Association directly and not through PBM, such independent audit shall be at the office of PBM;

(j) Provide to the Association, a payroll service for the purpose of administering the payroll of any site employee(s) that the Association may hire to perform services the Association deems necessary. The Association may, if it chooses, provide through PBM, medical coverage and other benefits normally provided by PBM for its employees. The Association shall advise PBM in writing the benefits it wishes to provide to its' employee(s) and that amount of the benefit(s) that will be payable by the employee(s) and the Association. For this service, PBM shall be entitled to charge the Association a fee of 5% of the employees' payroll plus the costs of any benefits the Association may chose to provide.

(k) Provide the Board by the 20th of each month with a set of statements showing by month and year to date:

(i) dollar amount of each disbursement;

(ii) the names of the members of the Association who are delinquent in payment of their required contribution to common expenses and the amount of each delinquency;

(iii) dollar amount of common expenses collected;

(iv) dollar amount of each disbursement as compared with budgeted expenses by budget categories;



(v) the names and amount of all other delinquent accounts;

(vi) Association income;

(vii) particulars of accounts, deposits, securities and any other instruments respecting investment income;

(viii) all accounting and financial reporting which is required under the terms of this agreement to be provided by PBM shall be in accordance with generally accepted accounting principles and practices.

(l) PBM shall designate, certain bonded employees who will be authorized to disburse funds of the Association. All payment by check shall require two signatures.

6. Reimbursed Expenses. The Association authorizes PBM to perform any act or do anything necessary or desirable in order to carry out its duties hereunder, and everything done by PBM hereunder shall be done as agent of the Association and all obligations or expenses incurred thereunder, PBM shall not be obliged to make any advance to or for the account of the Association, nor to pay any amount except out of funds held or provided as aforesaid, nor shall PBM be obligated to incur any liability or obligation unless the Association shall furnish PBM with the necessary funds for the discharge thereof. If PBM shall voluntarily advance, for the Association's account, any amount for the payment of any proper obligation or necessary expense connected with the maintenance or Operation of the Condominium or otherwise, PBM may reimburse itself out of the first collections from the Unit Owners. PBM shall confer fully with the Association in the performance of its duties hereunder.

7. Indemnification and Insurance.

The Association shall indemnify, defend, and save PBM harmless from all loss, liabilities, penalties, suits or other claims in connection with the Association or the management thereof, including but not limited to employment discrimination claims, claims arising due to PBM's compliance with directives from the Association or its members, or claims of injury to any person or property in, about, or in connection with the Association premises, from any cause whatsoever, unless caused by the gross negligence of PBM. Such indemnity shall be provided immediately upon prompt notice from PBM to the Association that PBM has been sued, or such claims have been made, without regard to extent of expenses or duration of litigation. The Association shall pay all expenses reasonably incurred by PBM including, but not limited to, all damages, penalties, attorneys' fees, costs, and expenses incurred to represent PBM in regard to any claim, proceeding, or suit in connection with or arising out of the management of the Association unless caused by the gross negligence of PBM. The indemnity provided hereunder shall also cover all acts performed by PBM pursuant to the instruction of the Association or any of its duly authorized officers or directors.

8. Compensation. As compensation for its services hereunder, the Association shall pay to PROFESSIONAL BAYWAY MANAGEMENT the sum of FIVE HUNDRED AND TWENTY DOLLARS (\$520.00) per month. Such compensation shall be payable monthly in advance during the term of this Agreement.

9. Office Facilities. PBM will provide its own office facilities, office maintenance and office staff thereof at its own expense.

10. Normal Work Week/Holidays. The normal workweek shall be Monday through Friday, 40 hours per week excluding holidays.

11. Liaison Officer. The Board shall designate a single individual who shall be authorized to deal with P.B.M. on any matter relating to the management of the Association. P.B.M. is directed not to accept directions or instructions with regard to the management of the Association from anyone else. In the absence of any other designation by the Board, the President of the Association shall have this authority.

12. Termination.

(A) This Agreement may be terminated without cause by either party at any time during its term or any extension thereof by written notice of at least two (2) month's duration,

(B) Upon termination of this Agreement:

(a) PBM shall as soon as possible thereafter render a final account to the Association;

(b) PBM shall surrender to the Association all contracts, records, files and other documents or information which may be pertinent to the continuing operation of the Property. The Association shall provide access to PBM at all reasonable times and upon reasonable notice to all such contracts, records, files and other documents or information subsequent to termination of this Agreement; and

(c) The Association shall assume the obligation of any and all contracts which PBM has properly made for the purpose of arranging services to be provided pursuant to this Agreement.

13. Notices. Unless otherwise stated herein, all notices which the parties hereto may desire or be required to give hereunder shall be deemed to have been properly given and shall be effective when, and if, sent by United States regular mail, postage prepaid, addressed to the Associations' Secretary at, the address of record and to PBM at 5901 Sun Boulevard, Suite 203, St. Petersburg, Florida 33715, or to such other address as either of the parties may designate in writing.

14. Benefit. This Management Agreement and every provision hereof shall bind, apply to and run in favor of the Association and PBM and respective successors in interest, and may not be changed, waived or terminated orally.

15. Severability. If any Paragraph, Subparagraph, sentence, clause, phrase or word of this Management Agreement shall be or is, for any reason, held or declared to be inoperative or void, such holding will not affect the remaining portions of this Management Agreement and it shall be construed to have been the intent of the parties hereto to have agreed without such inoperative or invalid part therein and the remainder of this Agreement, after the exclusion of such parts, shall be deemed and held to be as valid as if such excluded parts had never been included therein.

16. Attorney's Fees. In connection with any litigation including appellate proceedings, arising out of this agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Signed, sealed and delivered the presence of:

**BELLA CAPRI CONDOMINIUM ASSOCIATION INC.**, a Florida Corporation not for profit:

\_\_\_\_\_

By: \_\_\_\_\_  
Its President

As to the Association  
\_\_\_\_\_

By: \_\_\_\_\_  
Director

(CORPORATE SEAL)

**PROFESSIONAL BAYWAY MANAGEMENT COMPANY INC.**, a Florida corporation

\_\_\_\_\_

By: \_\_\_\_\_  
Its President

As to PBM  
\_\_\_\_\_

(CORPORATE SEAL)

EXHIBIT "A"

The number of units constructed in BELLA CAPRI CONDOMINIUM ASSOCIATION INC., A CONDOMINIUM, are TWENTY FOUR (24). As set forth in Paragraph 8 of the Management Agreement, PBM shall be entitled to collect as compensation TWENTY ONE DOLLARS AND SIXTY SIX CENTS (\$21.66) per unit, per month.

PBM shall charge the Association, in addition to the fees prescribed in paragraph 9 for the following:

|   |  |  |
|---|--|--|
| Postage                                     |  | at cost  |
| Envelopes                                   | (for Bulk mailing only)                          | \$.09 ea. #10's<br>\$.09 ea. returns<br>\$.12 ea. 6 x 9                            |
| Mailing Labels (for Bulk Mail)              |  | \$.50 per page   |
| Photo copies                                | 1 to 49 copies<br>50 to 99 copies<br>100 or more | \$.18 ea.<br>\$.14 ea.<br>\$.10 ea.  |
| Fax   |  | \$1.00 per page  |
| Telephone                                   | Long Distance Only                               | at cost  |
| Notary                                      |  | \$2.50 per occurrence  |
| Processing of Rental and Sales Applications |  | \$50.00 ea.  |
| Special Assessments                         |  | \$5.00 per unit with an additional fee of \$1.25 for each payment in excess of one |

The above charges may be revised by PBM annually.

**BELLA CAPRI CONDOMINIUM ASSOCIATION INC.**

**RULES AND REGULATIONS**

The Board of Directors publishes the rules and regulations set forth below for information and guidance of all residents.

Your cooperation in observing the rules listed below will ensure that our condominium community continues to be a pleasant and attractive place in which to live.

ALL UNIT OWNERS MUST INSTRUCT THEIR GUESTS AND TENANTS TO OBEY ALL RULES AND REGULATIONS OF BELLA CAPRI CONDOMINIUM ASSOCIATION. Unit owners who rent or lease their unit are responsible for the conduct of their tenants. Any infraction of the rules shall be directed to the owner of the unit.

**TENANTS MUST BE FURNISHED A COPY OF THE RULES AND REGULATIONS.**

No unit owner shall make any alteration, decoration, repair, replacement, change of paint, glass panes, or other enclosures on balconies or any other part of the units, common elements or any condominium building without prior written approval from the Board of Directors. Thus, the Board of Directors of the Association must approve installation of storm doors, floor covering on balconies and hurricane enclosures. The board will consider written requests specifying the color and materials specifications.

**Rule Changes** – The Board of Directors reserves the right to change, revoke, revise, or add to the existing Rules and Regulations.

**GENERAL**

- 1) All owners/residents must complete and return to the Association a PURCHASE/LEASE DATA SHEET and must be approved by the Association.
- 2) No articles shall be placed upon the common elements of the condominium property.
- 3) The common elements of the condominium property shall not be obstructed in any manner and shall be kept free and clear of rubbish, debris, and other unsightly or unsanitary material.
- 4) Fire exits shall not be obstructed in any manner.
- 5) No articles shall be hung or shaken from any unit onto the common elements of the condominium property.
- 6) No unit owner shall throw, sweep, or allow to fall any article or water from his unit onto the common elements of the condominium property.
- 7) No article shall be attached to, erected upon, installed, or affixed to the exterior walls, exterior doors, or roof of a unit or upon the other common elements of the condominium property.

- 8) Employees of the Association shall not be sent off the condominium property by any unit owner at any time for any purpose, nor shall any unit owner direct, supervise, or in any manner attempt to assert any control over the employees of the Association.
- 9) Unit owners' complaints regarding the maintenance and operation of the condominium shall be made in writing to the Board of Directors of the Association.
- 10) Children of guests shall at all times be supervised by a responsible adult.
- 11) Those unit owners who violate these rules shall be responsible for all costs incurred by the Association, including court costs and a reasonable attorney's fee, in the process of rectifying the non-compliance. These costs shall also include the removal of all articles, vehicles, and substances from the condominium property, which were placed thereon in violation of these rules.
- 12) Each unit owner requesting to speak or comment on any specific item listed in the agenda for any meeting of the Association shall submit, in writing, to the Board of Directors, at least twenty-four (24) hours prior to the opening of the meeting, the statement or comment he/she desires to make at the meeting. The speaker will be allowed a maximum of three (3) minutes for his/her comments.
- 13) Excessive noise and/or nuisance by owners, residents, their guests and workers is prohibited.
- 14) Everyone is requested to control loudness of group gatherings, TV, radios, and/or stereos, especially during evening and night hours when windows are open, as sound carries. Wind chimes are not permitted outside the units.
- 15) Feeding of birds, squirrels, or other small animals is not permitted.
- 16) Skateboards are not permitted on roadways. Walkways are strictly for foot traffic.
- 17) Any unit owner desiring to lease his/her unit must submit an application accompanied by a check in the amount of \$100.00 made payable to Bella Capri Condominium Association, Inc. at least ten (10) days prior to the effective date of the proposed lease or sale.
- 18) NO FOR SALE, FOR RENT, OR FOR LEASE signs or any other sign shall be posted on the premises of any unit.
- 19) Any request for condominium records must be in writing, with the agreement that the requestor will pay \$.25 per page, plus postage.
- 20) Children are not to play in the elevators.
- 21) A \$200.00 Moving Fee will be required prior to initial move-in and should be made payable to Bella Capri Condominium Association, Inc. Hours for moving in or out are from 8:00 A.M. to 8:00 P.M. and prior arrangements must be made with management to install pads in the elevator Monday through Friday. No moving is allowed on weekends

or holidays without Manager's approval. Any damage to the elevator interior is the responsibility of the person moving in or out and will be charged to the unit owner involved.

- 22) Eligibility for service on the Board of Directors is restricted to members of the Association only (except for developer representatives during the period when the Developer is in control of the Association).

### **POSTING OF MEETING DATES**

All meeting notices will be placed in the glass-enclosed board in the lobby.

### **LANAIS AND WALKWAYS**

- 1) No floor coverings shall be applied to the lanai deck unless approved by the Association.
- 2) Laundry, rugs, towels, bathing suits, mops or other similar articles shall not be hung or spread on the common elements of the condominium property where it would be visible from outside the condominium. Articles of any sort shall not be beaten, cleaned or dusted by handling or extending same from any window, door, or over railings. Items shall not be placed on the grass area for cleaning or painting.
- 3) Cigarette butts must be disposed of appropriately.
- 4) No flowers of any kind are to be planted in the ground around the edges of the buildings, without the prior authorization of the Board of Directors.
- 5) The use of grills on lanais is prohibited, except for a unit equipped with an outdoor kitchen by the Developer.

### **POOL RULES AND REGULATIONS**

- 1) Every unit owner must know the pool rules and instruct their guests or renters accordingly. Safety is the first consideration.
- 2) All persons wearing diapers must wear a protective covering to not allow spillage into the pool.
- 3) The pool & spas shall close at 10 PM on the weekdays and 11 PM on the weekends and holidays.
- 4) Radios around the pool are forbidden, except when earphones are used.
- 5) Everyone must shower before entering pool. Suntan lotions and oils must be removed before entering the pool.
- 6) Children not toilet trained must wear a swim diaper. No disposable diapers are to be worn in the pool.
- 7) Conventional swimsuits must be worn in the pool. (NO CUT-OFF JEANS)

- 8) Glass containers are not allowed in pool area.
- 9) No rafts, fins, balls or any other toys are allowed in the pool.
- 10) If chairs or lounges are moved, they must be put back before leaving the pool area.
- 11) No dogs are to be in the pool area.
- 12) No running or horse play.
- 13) No smoking in the pool or on the pool deck.
- 14) Children under 13 years of age must be supervised by an adult at all times.

### **PARKING**

- 1) Residents should advise their guests of the visitor parking locations.
- 2) Only designated parking spaces should be utilized for parking.
- 3) Each Unit Owner shall only be entitled to have a maximum amount of cars equal to the amount of enclosed garages and one car in the driveway per enclosed garage space. If a Unit Owner leases his or her Unit in accordance with the Declaration, the tenant may only utilize the Unit Owner's assigned parking spaces, and may not use the visitor parking spaces nor any other Unit Owner's assigned parking space.
- 4) **NO OVERNIGHT PARKING OF THE FOLLOWING;** Trailers, commercial vehicles, motor homes or any vehicles which bear any markings visible from outside or any vehicle which carries commercial equipment, tools, ladders, paint cans, or supplies within the bed, with fifth wheel set-up, dual rear wheels, with camper provisions for external hook-up and/or other living accommodations, any pick-up that extends beyond the boundaries of a parking space or overhangs the curb. Pick up trucks that are used as personal transportation shall be permitted. Under no circumstances may a van or other vehicle be lived in overnight.
- 5) No vehicle which cannot operate on its own power shall remain on the condominium property for more than forty-eight (48) hours.
- 6) No vehicle shall be repaired on the condominium property.
- 7) Also prohibited are: boats, motorcycles, water equipment, bicycles, sails, canoes or rafts stored on or attached to parked cars unless parked in a garage, and vehicles with raised or lowered suspension that emit excessive noise, fluids or smoke. No non-operational, unlicensed vehicles or those with expired license may be parked for repair or restoration.
- 8) Vehicles in violation will be towed at the owner's expense.
- 9) All garage doors must be closed when not in use.



## SECURITY

- 1) Keep building entrance doors closed at all times except to depart and enter.

## TRASH

- 2) All garbage and refuse should be contained in tightly tied plastic bags.
- 3) All boxes and cartons should be flattened by cutting the corners and folding, or thoroughly crushing to reduce bulk and should be placed in the trash container.
- 4) Refuse and garbage shall be deposited in the trash container provided for said collection.

## PETS

- 1) Pets are to be walked in the designated area only.
- 2) Pets shall be limited to two pets per unit, with strict behavioral criteria. All pets shall be registered with the Association. Pets are limited to owners only.

### Pet Behavior Criteria

- 1) The pet shall not make disturbing noises such as barking or crying that interfere with other residents' quiet enjoyment of the property.
- 2) The pet shall not be permitted to damage any common or limited common area of the property.
- 3) The pet shall not be permitted to defecate except in permitted areas. When using Permitted areas, owners must clean up after their pets every time without exception.
- 4) The owner will obey any and all use and health regulations concerning pets on the Property. No pet shall be allowed on the pool deck.
- 5) Whenever outside the residence, pets must be on a secure leash. No pet shall be allowed to run free for any amount of time.
- 6) No pet shall be permitted to behave in any fashion that could reasonably disturb the enjoyment of the property by other owners and their guests.

Aggressiveness, viciousness, biting or any behavior causing injury to any person shall be grounds for immediate removal of the pet from the property without the notice requirements below.

If an owner's pet behaves in a fashion which violates the behavioral criteria, the Board is permitted to exercise the following remedies:

- 7) On the first offense: the Property Manager/Association will send written notice to the homeowner via registered mail asking that the behavior be changed.

- 8) If a second behavioral problem occurs during any twelve-month period, the Board of Directors may vote to order the pet removed via a simple majority of the Board, which vote may be held at any regularly scheduled meeting.

Owners are to have no more than two pets. Renters are not allowed pets, Owners only.

**THESE RULES AND REGULATIONS WILL BE STRICTLY ENFORCED.**

In the case of any inconsistencies between the terms of the Declaration of Condominium for Bella Capri and these rules and regulations, the terms of the more restrictive provisions shall control, unless such terms of these rules and regulations are prohibited by the Declaration of Condominium and, in that event, the terms of the Declaration of Condominium shall control.

**BELLA CAPRI CONDOMINIUM  
ASSOCIATION BUDGET  
January 1, 2007 to December 31, 2007**

| <b>INCOME</b>       | <b>BUDGET<br/>ANNUAL</b> | <b>BUDGET<br/>MONTHLY</b> |    | <b>MONTHLY FEE</b> |
|---------------------|--------------------------|---------------------------|----|--------------------|
| MAINTENANCE FEES    | 149,280                  | 12,440                    | \$ | 518.33             |
| <b>TOTAL INCOME</b> | <b>\$ 149,280</b>        | <b>\$ 12,440</b>          |    |                    |

**EXPENSES FOR THE ASSOCIATION**

**ADMINISTRATION**

|  |                  |               |  |
|--|------------------|---------------|--|
| D.B.P.R.-BUREAU OF CONDOS  | 96               | 8             | \$4 PER UNIT PER YEAR  |
| LEGAL  |                  | -             | ALLOWANCE  |
| MANAGEMENT FEES  | 10,800           | 900           | MONTHLY ACCOUNTING SERVICES + ALLOWANCE OF 4 HRS / MO. MANAGERIAL TI |
| OFFICE EXPENSES  | 250              | 21            | MAILINGS, COUPONS, ENVELOPES   |
| PERMITS & LICENSES   | 150              | 13            | POOL & CORPORATION ANNUAL FEES                                       |
| POSTAGE  | 75               | 6             | ASSOCIATION MAILINGS   |
| BANK CHARGES   | 100              | 8             | CHECKS, COUPONS  |
| RENT FO RECREATIONAL LEASES & OTHER COMMONLY<br>USED FACILITIES (NA) |                  |               |  |
| TAXES ON ASSOCIATION PROPERTY (NA)                                   |                  |               |  |
| TAXES ON LEASED AREA (NA)  |                  |               |  |
| <b>TOTAL ADMINISTRATION</b>  | <b>\$ 11,471</b> | <b>\$ 956</b> |  |

**UTILITIES**

|                        |                  |                 |  |
|------------------------|------------------|-----------------|--|
| ELECTRICITY            | 18,000           | 1,500           | POOL AND SPA HEATING AND COMMON AREA LIGHTING AND COOLING    |
| WATER/SEWER            | 14,400           | 1,200           | 24 UNITS x \$50/MO (ASSUMES FULL OCCUPANCY)                  |
| TRASH REMOVAL          | 2,700            | 225             | EMPTYING A 2 YARD CONTAINERS, 3/wk                           |
| TELEPHONES             | 2,400            | 200             | ELEVATOR/ENTRY SYSTEM/ENTRY GATE and FIRE ALARM (FOUR LINES) |
| <b>TOTAL UTILITIES</b> | <b>\$ 37,500</b> | <b>\$ 3,125</b> |  |

**GROUNDS**

|                               |                 |               |                                    |
|-------------------------------|-----------------|---------------|------------------------------------|
| LANDSCAPE CONTRACT            | 5,000           | 417           | COMMON AREA LANDSCAPING            |
| PLANTS AND SOD                | 1,000           | 83            | MINOR COMMON AREA REPAIRS          |
| SPRINKLER (IRRIGATION) SYSTEM | 100             | 8             | MINOR REPAIRS TO IRRIGATION SYSTEM |
| <b>TOTAL GROUNDS</b>          | <b>\$ 6,100</b> | <b>\$ 508</b> |                                    |

**POOL**

|                      |                 |               |                                     |
|----------------------|-----------------|---------------|-------------------------------------|
| POOL CARE            | 5,000           | 417           | POOL AND SPA CLEANING AND TREATMENT |
| <b>TOTAL GROUNDS</b> | <b>\$ 5,000</b> | <b>\$ 417</b> |                                     |

**MAINTENANCE**

|                                  |        |       |  |
|----------------------------------|--------|-------|--|
| AIR CONDITIONING                 | 500    | 42    | GENERAL SERVICING - 4 LOBBIES  |
| GATE MAINTENANCE                 | 200    | 17    | ALLOWANCE FOR REPAIRS  |
| CLEANING/MAINTENANCE SERVICES    | 17,640 | 1,470 | COMMON AREA CLEANING CONTRACT 20 HOURS/WK @ \$16.00/HR + \$1,000 MAINTENANCE SER |
| ELEVATOR MAINTENANCE CONTRACT    | 12,000 | 1,000 | 4 ELEVATOR @ \$250/EA/MO   |
| ELEV. LICENSES & INSPECTIONS     | 1,200  | 100   | ANNUAL INSPECTIONS AND LICENSE   |
| ELEVATOR MONITORING              | 480    | 40    | EMERGENCY MONITORING SERVICE   |
| ENTRY GATE MAINTENANCE           | 250    | 21    | GENERAL SERVICING  |
| EXTERMINATING                    | 600    | 50    | COMMON AREA TREATMENTS   |
| FIRE ALARM SYSTEM MTNCE CONTRACT | 800    | 67    | ALARM MONITORING CONTRACT  |
| FIRE EXTINGUISHER SERVICE        | 100    | 8     | YEARLY INSPECTION  |
| JANITOR SUPPLIES                 | 300    | 25    | CLEANERS, PAPER TOWELS, ETC.   |
| LIGHT BULBS AND FIXTURES         | 200    | 17    | ALLOWANCE ONLY   |
| PLUMBING REPAIRS                 | -      | -     |  |

**BELLA CAPRI CONDOMINIUM  
ASSOCIATION BUDGET  
January 1, 2007 to December 31, 2007**

MONTHLY FEE

|                                     | BUDGET<br>ANNUAL | BUDGET<br>MONTHLY |
|-------------------------------------|------------------|-------------------|
| SECURITY                            | NA               | -                 |
| OTHER EXPENSES                      | 750              | 63                |
| <b>TOTAL REPAIR AND MAINTENANCE</b> | <b>\$ 35,020</b> | <b>\$ 2,918</b>   |

**INSURANCE**

|                                  |                  |                 |                            |
|----------------------------------|------------------|-----------------|----------------------------|
| HAZARD /D&O/BOND/WIND            | 32,000           | 2,667           | Wind/ D & O, Property/Bond |
| FLOOD INSURANCE                  | 4,000            | 333             |                            |
| <b>TOTAL INSURANCE AND TAXES</b> | <b>\$ 36,000</b> | <b>\$ 3,000</b> |                            |

|                                    |                |                  |
|------------------------------------|----------------|------------------|
| WORKING CAPITAL                    | -              | -                |
| <b>TOTAL OPERATING EXPENSES \$</b> | <b>131,091</b> | <b>\$ 10,924</b> |

**BUILDING RESERVES**

|   |                |                  |                    |
|---|----------------|------------------|--------------------|
| BUILDING PAINTING                           | 10,714         | 893              | SEE RESERVE BUDGET |
| PAVER REPLACEMENT                           | 625            | 52               |                    |
| ROOF REPLACEMENT                            | 3,250          | 271              |                    |
| ELEVATORS                                   | 2,000          | 167              |                    |
| POOL/SPA-resurfacing                        | 800            | 50               |                    |
| ATRIUM PRESERVED TREES                      | 1,000          | 83               |                    |
| <b>TOTAL BUILDING RESERVES</b>              | <b>18,189</b>  | <b>1,516</b>     |                    |
| <b>TOTAL OPERATING AND RESERVE EXPEN \$</b> | <b>149,280</b> | <b>\$ 12,440</b> |                    |
| <b>SURPLUS (DEFICIT)</b>                    | <b>-</b>       |                  |                    |

BELLA CAPRI

Reserves

1/1/07 - 12/31/07

| ITEM                 | 2006<br>LIFE EXPECT. | 2006<br>CURRENT AGE | YEARS<br>REMAINING | 2006<br>REPLACE.<br>COST | BALANCE<br>REQUIRED | 2006<br>ANNUAL<br>COST | 2006<br>MONTHLY<br>COST |  |
|----------------------|----------------------|---------------------|--------------------|--------------------------|---------------------|------------------------|-------------------------|--|
| BUILDING PAINTING    | 7                    | -                   | 7                  | 75,000                   | 75,000              | \$ 10,714              | \$ 893                  | Waterproofing and repainting of building exterior every seven (7) ye |
| PAVER REPLACEMENT    | 40                   | -                   | 40                 | 25,000                   | 25,000              | \$ 625                 | \$ 52                   | To replace parking lot pavers every 40 years                         |
| ROOF REPLACEMENT     | 20                   | -                   | 20                 | 65,000                   | 65,000              | \$ 3,250               | \$ 271                  | To reroof building   |
| ELEVATORS            | 15                   | -                   | 15                 | 30,000                   | 30,000              | \$ 2,000               | \$ 167                  | refurbishment of cab interior  |
| POOL/SPA-resurfacing | 15                   | -                   | 15                 | 9,000                    | 9,000               | \$ 600                 | \$ 50                   | resurface of pool and spa  |
| ATRIUM PRESERVED TR  | 5                    | -                   | 5                  | 5,000                    | 5,000               | \$ 1,000               | \$ 83                   |  |
|                      |                      |                     |                    | 209,000                  | 209,000             | 18,189                 | 1,516                   |  |

**PBM**

**BELLA CAPRI  
CABANA (LCEs) BUDGET  
1/1/07 THROUGH 12/31/07**

|                     | BUDGET<br>ANNUAL | BUDGET<br>MONTHLY |    | MONTHLY FEE |
|---------------------|------------------|-------------------|----|-------------|
| <b>INCOME</b>       |                  |                   |    |             |
| MAINTENANCE FEES    | 4,800            | 400               | \$ | 66.67       |
| <b>TOTAL INCOME</b> | <b>\$ 4,800</b>  | <b>\$ 400</b>     |    |             |

**EXPENSES**

**ADMINISTRATION**

|   |             |             |  |  |
|---|-------------|-------------|--|--|
| D.B.P.R.-BUREAU OF CONDOS (N/A)                                       | -           | -           |  |  |
| MANAGEMENT FEES (N/A)   | -           | -           |  |  |
| RENT FO RECREATIONAL LEASES & OTHER COMMONLY<br>USED FACILITIES (N/A) |             |             |  |  |
| TAXES ON ASSOCIATION PROPERTY (N/A)                                   |             |             |  |  |
| TAXES ON LEASED AREA (N/A)  |             |             |  |  |
| <b>TOTAL ADMINISTRATION</b>   | <b>\$ -</b> | <b>\$ -</b> |  |  |

**UTILITIES**

|                        |             |             |  |  |
|------------------------|-------------|-------------|--|--|
| ELECTRICITY (N/A)      | -           | -           |  |  |
| WATER/SEWER (N/A)      | -           | -           |  |  |
| <b>TOTAL UTILITIES</b> | <b>\$ -</b> | <b>\$ -</b> |  |  |

**GROUNDS**

|                      |             |             |  |  |
|----------------------|-------------|-------------|--|--|
| LANDSCAPE (N/A)      | -           | -           |  |  |
| <b>TOTAL GROUNDS</b> | <b>\$ -</b> | <b>\$ -</b> |  |  |

**POOL**

|                      |             |             |  |  |
|----------------------|-------------|-------------|--|--|
| POOL CARE (N/A)      | -           | -           |  |  |
| <b>TOTAL GROUNDS</b> | <b>\$ -</b> | <b>\$ -</b> |  |  |

**MAINTENANCE**

|                                     |             |   |  |  |
|-------------------------------------|-------------|---|--|--|
| SECURITY (N/A)                      | -           | - |  |  |
| <b>TOTAL REPAIR AND MAINTENANCE</b> | <b>\$ -</b> |   |  |  |

**INSURANCE**

|                                  |             |             |  |  |
|----------------------------------|-------------|-------------|--|--|
| HAZARD /D&O/BOND/WIND (N/A)      | -           | -           |  |  |
| FLOOD INSURANCE (N/A)            | -           | -           |  |  |
| <b>TOTAL INSURANCE AND TAXES</b> | <b>\$ -</b> | <b>\$ -</b> |  |  |

**PBM**

**BELLA CAPRI  
CABANA (LCEs) BUDGET  
1/1/07 THROUGH 12/31/07**

|                                    |          |             |
|------------------------------------|----------|-------------|
| WORKING CAPITAL (N/A)              | -        | -           |
| <b>TOTAL OPERATING EXPENSES \$</b> | <b>-</b> | <b>\$ -</b> |

**BUILDING RESERVES**

|  |              |               |                    |
|--|--------------|---------------|--------------------|
| REPLACEMENT                                  | 4,800        | 400           | SEE RESERVE BUDGET |
| ROOF REPLACEMENT                             | NA           |               |                    |
| ELEVATORS                                    | NA           |               |                    |
| POOL/SPA-resurfacing                         | NA           |               |                    |
| <b>TOTAL BUILDING RESERVES</b>               | <b>4,800</b> | <b>400</b>    |                    |
| <b>TOTAL OPERATING AND RESERVE EXPEN: \$</b> | <b>4,800</b> | <b>\$ 400</b> |                    |
| <b>SURPLUS (DEFICIT)</b>                     | <b>-</b>     |               |                    |

# BELLA CAPRI CABANA (LCEs) RESERVE BUDGET

1/1/07 - 11/31/07

| ITEM        | 2007<br>LIFE EXPECT. | 2007<br>CURRENT AGE | YEARS<br>REMAINING | 2007<br>REPLACE.<br>COST | BALANCE<br>REQUIRED | 2007<br>ANNUAL<br>COST | 2007<br>MONTHLY<br>COST |
|-------------|----------------------|---------------------|--------------------|--------------------------|---------------------|------------------------|-------------------------|
| REPLACEMENT | 5                    | -                   | 5                  | 24,000                   | 24,000              | \$ 4,800               | \$ 400                  |
|             |                      |                     |                    | 24,000                   | 24,000              | 4,800                  | 400                     |



**ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS AGREEMENT AND THE DOCUMENTS REQUIRED BY SECTION 718.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE.**

**ANY PAYMENT IN EXCESS OF TEN PERCENT OF THE PURCHASE PRICE MADE TO THE DEVELOPER PRIOR TO CLOSING PURSUANT TO THIS AGREEMENT MAY BE USED FOR CONSTRUCTION PURPOSES BY THE DEVELOPER.**

**PURCHASE AND SALE AGREEMENT**

**THIS PURCHASE AND SALE AGREEMENT** (the "Agreement"), is made this \_\_\_\_ day of \_\_\_\_\_, 2006, by and between **INDIAN ROCKS BEACH DEVELOPMENT, LLC**, a Florida limited liability company, whose address is P.O. Box 1839, Tampa, FL 33601 ("Seller"), and \_\_\_\_\_ ("Buyer"), whose address is \_\_\_\_\_, and whose home telephone number is (\_\_\_\_) \_\_\_\_-\_\_\_\_, and whose business telephone number is (\_\_\_\_) \_\_\_\_-\_\_\_\_, and whose social security number is \_\_\_\_-\_\_\_\_-\_\_\_\_ and \_\_\_\_-\_\_\_\_-\_\_\_\_.

**WITNESSETH:**

WHEREAS, Seller is the developer of Bella Capri, a Condominium (the "Condominium") and Buyer desires to purchase Unit \_\_\_\_\_, having a mailing address of \_\_\_\_\_, with all appurtenances thereto, according and subject to the Declaration of Condominium for the Condominium, recorded or to be recorded in the Public Records of Pinellas County, Florida, and Buyer is agreeable to the purchase;

1. **PURCHASE OBLIGATION.** Seller shall sell and Buyer shall purchase Unit \_\_\_\_ in accordance with the terms of this Agreement. Buyer acknowledges that no representation has been made by Seller or any of its agents of any income, income tax or economic benefit to be derived by virtue of the purchase or ownership of the Unit.

2. **PURCHASE PRICE AND MANNER OF PAYMENT.** The purchase price to be paid by Buyer to Seller for the Unit shall be the sum of \$\_\_\_\_\_, which shall be payable as follows:

- a. Earnest Money Deposit either \$\_\_\_\_\_ transferred from Reservation Agreement or paid in cash to be held by Escrow Agent in accordance herewith
- b. Balance of initial ten percent (10%) Earnest Money Deposit to be paid to Escrow Agent within 15 days of the date set forth in the initial paragraph above of this Agreement \$\_\_\_\_\_

\_\_\_\_\_  
Initial

- c. Additional ten percent (10%) Earnest Money Deposit to be paid within fourteen (14) days of the Seller's written notice to Buyer of commencement of the initial construction of the Condominium or if construction has commenced on the building, then within thirty (30) days of the execution of this Agreement \$ \_\_\_\_\_
  
- d. Balance of purchase price which shall be due at closing, in cash or by wired funds to Seller's Closing Agent's account or by cashier's check drawn on a bank with offices in Pinellas County, Florida \$ \_\_\_\_\_
  
- TOTAL PURCHASE PRICE \$ \_\_\_\_\_

3. CONSTRUCTION. If Buyer's Unit has not been completed as of the date of full execution of this Agreement, it is understood that the Unit and the Condominium will be constructed in substantial accordance with the plans and specifications thereof kept in Seller's construction office, as such plans and specifications are amended from time to time. Seller may make any changes in the plans and specifications that it deems appropriate at any time, as long as those changes do not, in Seller's opinion, seriously and adversely affect the market value of the Unit. Such plans and specifications, as they are so amended, are referred to in this Agreement as "Seller's Plans and Specifications." Buyer agrees that changes in the dimensions of rooms, patios and balconies, in the location of windows, doors, walls, partitions, utility (including, but not limited to, television and telephone) lead-ins and outlets, air conditioning equipment, ducts and components, lighting fixtures and electric panel boxes, and in the general layout of the Unit and Condominium, may be made by Seller in its discretion. In furtherance of the understanding and agreement stated above, Buyer acknowledges and agrees that it is a widely observed construction industry practice for pre-construction plans and specifications for any unit or building to be changed and adjusted from time to time. These changes and adjustments are essential in order to permit all components of the Unit and the Building to be integrated into a well-functioning and aesthetically pleasing product in an expeditious manner. Buyer further acknowledges and agrees that (i) the plans and specifications for the Unit and the Condominium on file with the applicable governmental authorities may not, initially, be identical in detail to Seller's Plans and Specifications, and (ii) because of the day-to-day nature of the changes described in this Paragraph 3, the plans and specifications on file with applicable governmental authorities may not include some or any of these changes (there being no legal requirement to file all changes with such authorities).

Buyer waives any and all express or implied warranties that construction will be accomplished in compliance with such plans and specifications. In addition, Seller reserves the right to substitute appliances, materials and equipment for others of similar quality, utility or color, and Seller reserves the right to make changes in the plans and specifications as may be found necessary during the construction period provided such changes shall not materially affect the size or location of the Unit.

4. DEPOSITS HELD IN ESCROW. All deposits toward the Purchase Price paid by Buyer under this Agreement shall be delivered to and held in escrow by Foley & Lardner LLP, Escrow Agent, whose address is 100 North Tampa Street, Suite 2700, Tampa, Florida 33602, pursuant to Chapter 718, *Florida Statutes*, and the Escrow Agreement executed between Seller and Escrow Agent and contained in the Condominium Filing. Escrow Agent shall give Buyer a receipt for the deposit upon request and the deposit shall be disbursed in accordance with the Agreement. The Escrow Agent is empowered but not obligated to invest the escrowed funds. Any payment made to Seller under this Agreement in excess of 10% of the purchase price shall be disbursed by the Escrow Agent to Seller upon commencement of construction of improvements to be used for construction purposes. All funds and accrued interest, if any, held by the Escrow Agent shall be disbursed in accordance with the terms of the Escrow Agreement set forth in Exhibit 7 to the Prospectus and Item 15 of the Condominium filing. It is expressly understood and agreed to between the parties that the Seller is entitled to all interest earned on the deposits paid by Buyer under this Agreement and the Escrow Agreement (unless Buyer properly terminates this Agreement pursuant to the terms hereof or pursuant to the Condominium Act, Chapter 718, *Florida Statutes*), although Seller agrees that if the Buyer closes on the purchase of his or her Unit and is not in default of this Agreement, then Seller shall pay Buyer interest on each deposit made under this Agreement from the date that each deposit is placed in the escrow account as acknowledged by the Escrow Agent to the date that each deposit is withdrawn from the escrow account as acknowledged by the Escrow Agent.

5. CLOSING.

a. The closing of this transaction shall take place on the date specified by Seller upon delivery of at least 5 days notice to Buyer of said date that Buyer's Unit is substantially complete provided, however, that if such day is not a normal business day, then closing shall occur on the next business day. A Certificate of Occupancy for the Unit shall be conclusive evidence of substantial completion of construction. The notice shall specify the time, date and place of closing (the "Closing Date"). Completion of punchlist items shall not serve as a basis for delaying the closing of this transaction. At the closing, Seller shall convey the Unit to Buyer by a special warranty deed, subject only to the Declaration of Condominium and the exhibits to it (including the Articles of Incorporation of the Bella Capri Condominium Association, Inc., the Bylaws of Bella Capri Condominium Association, Inc., and the condominium plat), taxes, sewer charges and assessments for the year of closing and subsequent years, zoning laws, regulations and ordinances and any easements, declarations, restrictions, covenants and reservations of record. Florida real estate taxes and all assessments, including condominium assessments to the Association, shall be prorated at closing. In the event real estate taxes and/or assessment shall have not been separately assessed to the subject Condominium Unit at the time of closing, the taxes and/or assessments applicable to said Unit shall be determined by Seller estimating the net anticipated taxes and/or assessments for the year, which estimation shall be prorated and paid by Buyer at the time of closing.

Using the maximum discount allowed, Seller and Buyer agree to re-prorate taxes and/or assessments once the final tax bill is issued. Seller shall pay at closing for the following costs: (i) the premium and related title charges for the title insurance policy to be delivered by Seller to Buyer pursuant to Paragraph 6 below, and (ii) the cost of recording of the deed. Buyer shall pay the documentary stamps due on the deed, the premium cost of the Buyer's mortgagee title insurance policy and for all other costs, including closing costs, if any, incurred relative to financing the purchase of the Unit by Buyer. Additional costs to be paid by Buyer at Closing are the current monthly assessment of Bella Capri Condominium Association, Inc. (the "Association"), prorated for the month in which the sale closes. Attached as Exhibit B is the Real Property Disclosure Report for the Condominium setting forth the various charges, costs and expenses.

b. Seller is authorized to postpone the closing for any reason and Buyer will close on the new date, time and place specified in a notice of postponement (as long as at least 3 days' notice of the new date, time and place is given). A change of time or place of closing only (one not involving a change of date) will not require any additional notice period. Any formal notice of closing, postponement or rescheduling may be given orally, by telephone, telegraph, telex, telecopy, mail or other reasonable means of communication at Seller's option. All of these notices will be sent or directed to the address, or given by use of the information specified on Page 1 of this Agreement unless Seller has received written notice from Buyer of any change prior to the date the notice is given. These notices will be effective the date given or mailed (as appropriate). An affidavit of one of Seller's employees or agents stating that this notice was given or mailed will be conclusive.

If Seller agrees in writing to reschedule closing at Buyer's request, or if Buyer is a corporation and Buyer fails to produce the necessary corporate papers Seller requests and, as a result, closing is delayed, or if closing is delayed for any other reason (except for a delay desired, requested or caused by Seller), Buyer agrees to pay at closing a late funding charge equal to interest, at the then highest applicable lawful rate, on that portion of the purchase price not then paid to Seller (and cleared), from the date Seller originally scheduled date. Buyer understands that Seller is not required to reschedule or to permit a delay in closing.

6. TITLE INSURANCE. Seller shall deliver to Buyer before closing an owner's binder of title insurance issued by a title insurance company acceptable to Seller, agreeing to insure title to Buyer's Unit, subject only to the standard printed exceptions, those items mentioned in Paragraph 5 of this Agreement and any item that may be cured by an application of the purchase price. The binder shall be conclusive of compliance by the Seller relative to the title requirements of this Agreement. The cost of the title insurance shall be borne by Seller. Buyer shall have seven (7) days from the date of receiving the owner's binder of title insurance to examine it. If title is found to be defective, Buyer shall within said seven (7) day period notify Seller in writing specifying the defect. If Seller fails or refuses to correct any defects of title, which will materially affect Buyer's use or occupancy of Buyer's Unit, revealed by the Title Binder within ninety (90) days of notice by Buyer and provided Buyer timely objected, Buyer shall have the right to cancel this Agreement and receive a return of all money paid under it or to proceed to a closing with no abatement of the purchase price, taking title in its then condition. The foregoing shall be the exclusive rights and remedies of Buyer for defects in title.

7. COMPLETION OF CONSTRUCTION. Delays in completion of construction shall not give rise to any right of Buyer to cancel or rescind this Agreement, unless Seller fails to complete

Buyer's Unit within thirty (30) months from the date of execution of this Agreement, (subject, however, only to delays caused by matters which are legally recognized as defenses to contract actions in the jurisdiction where the building is being erected), and in that event Buyer shall have all rights and remedies permitted under Florida law including but not limited to the right of specific performance. Buyer acknowledges that Buyer has had an opportunity to review the construction plans and specifications relating to the Buyer's Unit and the condominium improvements at the construction site.

8. WARRANTY/DISCLAIMER OF IMPLIED WARRANTIES. All manufacturers' warranties will be passed through to Buyer at closing. At closing, Buyer will receive the statutory warranties imposed by the Florida Condominium Act.

**To the maximum extent lawful, all implied warranties of fitness for a particular purpose, merchantability and habitability, all warranties imposed by statute (except only those imposed by the Florida Condominium Act to the extent they cannot be disclaimed and to the extent they have not expired by their terms) and all other implied or express warranties of any kind or character are specifically disclaimed. Without limiting the generality of the foregoing, Seller hereby disclaims any and all express or implied warranties as to design, construction, view, sound and/or odor transmission, furnishing and equipping of the Condominium Property, the existence of molds, mildew, spores, fungi and/or other toxins within the Condominium Property, except only those set forth in section 718.203 of the Act, to the extent applicable and to the extent that same have not expired by their terms. Seller has not given and Buyer has not relied on or bargained for any such warranties.**

**As to any implied warranty which cannot be disclaimed entirely, all secondary, incidental and consequential damages are specifically excluded and disclaimed (claims for such secondary, incidental and consequential damages being clearly unavailable in the case of implied warranties which are disclaimed entirely above).**

**Buyer acknowledges and agrees that Seller does not guarantee, warrant or otherwise assure, and expressly disclaims, any right to view and/or natural light.**

**Further, given the climate and humid conditions in Florida, molds, mildew, spores, fungi and/or other toxins may exist and/or develop within the Condominium Property. Buyer is hereby advised that certain molds, mildew, spores, fungi and/or other toxins may be, or if allowed to remain for a sufficient period may become, toxic and potentially pose a health risk. By closing, Buyer shall be deemed to have assumed the risks associated with molds, mildew, spores, fungi and/or other toxins and to have released the Seller from any and all liability resulting from same.**

This paragraph will survive (continue to be effective after) closing.

9. DEFAULT. In the event Buyer defaults under this Agreement, Seller as its exclusive remedy shall have the right to retain all money paid by Buyer under this Agreement, together with all interest that Buyer would otherwise be entitled to receive under Paragraph 4 above, as agreed upon liquidated damages as consideration for Seller's execution of this Agreement and in full settlement of any claim against Buyer, because both parties recognize that the precise loss to Seller due to Buyer's

default is impossible to ascertain, and then Seller shall have no further obligations to Buyer. Subject to Paragraph 7 above, in the event of default by Seller other than the Seller's willful nonperformance under this Agreement, Buyer shall have the right to receive an immediate return of all deposit money, together with all interest earned thereon, paid to Seller under this Agreement, which shall be the exclusive remedy of Buyer. In the event of Seller's willful nonperformance under this Agreement, Buyer shall have all rights and remedies permitted under Florida law. "Default" shall include not only the failure to make prompt payment of any sums due under this Agreement but also the failure to perform any other acts required of Buyer under this Agreement.

10. ACCEPTANCE OF DEED. Except for completion by Seller of the agreed upon "punchlist" items, the closing of this transaction and acceptance of the deed mentioned in Paragraph 5 above shall be conclusive of the compliance by Seller of Seller's obligations under this Agreement.

11. RIGHT OF ASSIGNMENT. Buyer shall not have the right to assign this Agreement, except with the written consent of Seller, which consent can be withheld at Seller's sole discretion. Buyer acknowledges and agrees that Seller's ability to sell other Units owned by Seller within the Condominium and the value of such Units owned by Seller will be diminished and harmed by Buyer attempting to resell the Unit through local brokers or advertising the Unit for sale in publications in the general area of where the Unit is located, prior to Buyer receiving fee simple title to the Unit and that Seller shall be irreparably harmed by such actions. Therefore, Buyer covenants and agrees not to enter into a listing agreement for the sale of the Unit with a broker with offices in Hillsborough County and Pinellas County, Florida or to advertise or cause the Unit to be advertised for sale in any newspaper, trade magazine or other publication which is sold or in general circulation in Hillsborough County and Pinellas County, Florida, prior to obtaining fee simple title to the Unit. A breach of the provisions of this paragraph shall be a default hereunder by Buyer and entitle Seller to exercise its remedies under this Agreement.

12. OFFER. This Agreement shall constitute an irrevocable offer by Buyer to Seller to purchase the unit referred to above on the terms and conditions contained in this Agreement. This offer is to be accepted, if at all, by Seller affixing Seller's signature below or depositing a copy of this Agreement so executed in the United States mail, addressed to Buyer, postage prepaid. Buyer understands that Seller needs to check the creditworthiness of Buyer before it can accept the offer. Buyer agrees that Seller shall have the right to contact Buyer's banking relationships to ascertain the credit-worthiness of Buyer. By executing a copy of this Agreement, Buyer agrees to execute any and all documents reasonably requested by Seller in order to obtain financial information on Buyer and to allow Buyer's bankers to discuss Buyer's creditworthiness with Seller.

13. NOTICES. Any notices permitted or required under this Agreement shall be deemed delivered when they are deposited in the United States mail, addressed to the appropriate party at the address first shown above, postage prepaid, registered or certified mail, return receipt requested.

14. EXPENSES OF ENFORCEMENT. If it becomes necessary for Seller to employ the services of an attorney to enforce Seller's rights under the Agreement, Buyer shall be responsible for all reasonable attorneys' fees incurred by Seller as well as all court costs and fees incurred by Seller in the event of litigation being instituted by Seller relative to enforcement of this Agreement.

15. BROKER. Buyer acknowledges and warrants that the following named broker(s) and salesperson(s) are the only real estate licensees to have ever been involved in this transaction on Buyer's behalf:

Unit No. \_\_\_\_\_

Seller's Broker:

Agent: \_\_\_\_\_

Broker firm name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Additional Real Estate Licensee(s):

Broker/firm name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Agent: \_\_\_\_\_

Broker firm name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Buyer represents that Buyer has only dealt with the foregoing brokers relative to this transaction and shall save and hold Seller harmless relative to any brokerage commission claimed by virtue of breach of this representation. This provision shall survive the closing.

16. COMPLETE AGREEMENT. This Agreement constitutes the complete Agreement between the parties and no modification of this agreement shall be binding unless in writing and executed by the parties.

17. RADON GAS. Radon is a naturally occurring radioactive gas that, when it is accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

The foregoing disclosure is required pursuant to §404.056(8), *Florida Statutes*, for all contracts for sale and purchase of buildings located in Florida.

18. GOVERNING LAW. Buyer certifies that Buyer is executing this Agreement while in the State of Florida of Buyer's own volition and that this purchase was not solicited either by telephone or mail in another state. The obligations under this Agreement shall be performed in the State of Florida and governed by Florida law.

19. RECORDING. Buyer shall not directly or indirectly record this Agreement in the public records. If Buyer does record this Agreement in the public records, said recording by Buyer

shall be a default of this Agreement and entitle the Seller to the remedies set forth in Paragraph 10 hereof.

20. INSULATION SPECIFICATIONS. The type, thickness and R-Value of the insulation installed as part of the Unit are as follows:

If the Unit is a top-floor Unit, the ceilings of the Unit will be insulated with batt or blown type of insulation to a minimum thickness of one and one-half (1.5) inches, which thickness, according to the manufacturer, results in an R-Value of 16. The exterior perimeter walls to the Unit will be insulated with batt or foil type of insulation between the wood furring strips, which, according to the manufacturer, will result in an R-Value of 4.1.

21. ENERGY PERFORMANCE AND ENERGY-EFFICIENCY RATING DISCLOSURE. In accordance with *Florida Statutes*, Section 553.996, a Buyer of real property with a building for occupancy located thereon shall be provided written notification that the Buyer may have the building's energy-efficiency rating determined upon request of the prospective Buyer, in writing, at the time of, or prior to, the Buyer's execution of the contract for sale and purchase. The Buyer shall be provided with a copy of an information brochure prepared and provided at no cost by the Department of Community Affairs Codes and Standards Office. Any cost associated with determining the building's energy-efficiency rating will be at Buyer's expense. The undersigned Buyer hereby acknowledges that they have received a copy of the above-referenced information brochures and voluntarily waive the request for an energy-efficiency rating.

22. SEVERABILITY. Any disputes that develop under this Agreement, and any issues that arise regarding the entering into, validity and/or execution of the Agreement, will be settled according to Florida law. If any part of this Agreement violates a provision of applicable law, the applicable law will control. In such case, however, the rest of the Agreement (not in violation) will remain in force.

Without limiting the generality of the foregoing, it is Buyer's and Seller's mutual desire and intention that all provisions of their Agreement be given full effect and be enforceable strictly in accordance with their terms. If, however, any part of this Agreement is not enforceable in accordance with its terms or would render other parts of this Agreement or this Agreement, in its entirety, unenforceable, the unenforceable part of parts are to be judicially modified, if at all possible, to come as close as possible to the expressed intent of such part of parts (and still be enforceable without jeopardy to other parts of this Agreement or this Agreement in its entirety), and then are to be enforced as so modified. If the unenforceable part of parts cannot be so modified, such part or parts will be unenforceable and considered null and void in order that the mutual paramount goal (that this Agreement is to be enforced to the maximum extent possible strictly in accordance with its terms) can be achieved.

Without limiting the generality of the foregoing, if the mere inclusion in this Agreement of language granting to Seller certain rights and powers, or waiving or limiting any of Buyer's rights or powers or Seller's obligations (which otherwise would be applicable in the absence of such language), results in a final conclusion (after giving effect to the above judicial modification, if possible) that Buyer has the right to cancel this Agreement and receive a refund of his deposits, such offending rights, powers, limitations and/or waivers shall be struck, canceled, rendered



unenforceable, ineffective and null and void. Under no circumstances shall either Buyer or Seller have the right to cancel this Agreement solely by reason of the inclusion of certain language in this Agreement (other than language which is intended specifically to create such a cancellation right)..

23. INTERFERENCE. Buyer agrees not to interfere with the workmen on the construction site where the Unit is located. Any questions regarding construction shall be directed to Seller's sales department. Buyer will not hire or employ any contractors, subcontractors or other persons, firms or corporations to do work in or on the Unit until after the Closing, unless Buyer obtains Seller's prior written consent which consent can be withheld in Seller's sole discretion. Buyer and all agents of Buyer are prohibited from entering the construction site or the Unit, all of which are restricted areas, during construction without the prior written consent of Seller which consent can be withheld in Seller's sole discretion. A breach of this provision shall be deemed a default under this Agreement and Seller shall have all rights and remedies permitted under Paragraph 10 of this Agreement.

24. SELLER'S AUTHORIZATION. Buyer hereby authorizes Seller, as Seller deems necessary, to record among the Public Records of Pinellas County, Florida, such documents and instruments as are required to be filed under the laws of the State of Florida in order to create and maintain the Condominium. Seller may make changes in the Condominium Documents in its sole discretion. Buyer will have fifteen (15) days from the date of receipt of such changes from Seller which materially alter or modify the offering of the Condominium in a manner adverse to Buyer in which to cancel this Agreement (by delivering written notice to Seller of such cancellation) and receive a refund of any deposits with applicable interest. Seller will be relieved of all obligations under this Agreement when Seller refunds the deposits and interest. Buyer will not be permitted to prevent Seller from making any change it wishes in its sole discretion, not to pursue any remedy other than the fifteen (15) day cancellation remedy described above (and then only for the kind of changes that materially alter or modify the offering in a manner that is adverse to Buyer).

If Buyer has the right to cancel this Agreement by reason of a change which materially alters or modifies the offering of the Condominium in a matter adverse to Buyer, Buyer's failure to request cancellation in writing within the fifteen (15) day period will mean that Buyer accepts the change and waives irrevocably his right so to cancel. All rights of cancellation will terminate, if not sooner, then absolutely at closing. After closing, Buyer will have no remedy for any changes Seller may make or have made.

Without limiting the generality of the foregoing and other provisions of this Agreement, Seller is specifically authorized to: (i) substitute the final legal descriptions and as-built surveys for the proposed legal descriptions and plot plans contained in the Condominium Documents even though changes occur in the permitting stage and during construction, and/or (ii) combine and/or subdivide units prior to the recordation of the Declaration (and incorporate divider wall common elements in any such combination units or add common element divider walls in any such subdivision), provided that the percentage share of ownership of common elements of any unit not affected in the combination or subdivision is not affected. Such substitution, combination and/or subdivision shall not be deemed to be either material or adverse.

This paragraph will survive (continue to be effective after) closing.

25. BUYER'S SELECTIONS. Within fifteen (15) calendar days after written request from Seller for the Buyer's selections ("Selection Period"), Buyer agrees to select, upon Seller's standard forms and at the location designated by Seller, all options for any items for which Buyer has a selection. If Buyer fails to make any such selection within the Selection Period, then Seller shall have the option (i) to declare Buyer in default hereunder; (ii) to charge the Buyer an administrative charge of \$250 for each day following the Selection Period that Buyer does not make any such selection to compensate Seller for its additional costs caused by Buyer's delay, or (iii) Seller reserves the right to make all selections as it chooses in its sole and absolute discretion. Buyer shall have no right to make any changes, options, alterations or extras after the Selection Period. However, Seller may, but shall not be obligated to, agree to make changes requested by Buyer after the Selection Period depending upon factors including, but not limited to, product availability, time and ease of installation, and progress of construction at the time the change is requested, as determined by Seller in Seller's sole discretion. In the event Seller agrees to make changes after the Selection Period, the cost of such change shall be determined by Seller in Seller's sole discretion, and the cost of such change may be higher than it would have been if the change had been made during the Selection Period. In addition to the cost of the change, each individual change shall bear an administrative charge in the amount of \$500 to be paid by Buyer. Buyer understands and agrees that any changes, alterations or extras requested by Buyer will likely delay the completion of the Unit. Administrative charges will not be credited as earnest money at closing or refunded to Buyer under any circumstances.

26. SELLER'S MORTGAGE LIEN. Buyer acknowledges that the Unit may be encumbered by one or more mortgages at the time of the Closing, and agrees that same shall not be an objection to title, it being understood that the Unit will be released from the liens of such mortgages utilizing the proceeds received at the Closing. Buyer acknowledges and agrees that to the extent permitted under applicable law (including, without limitation, the Condominium Act), the lien of any mortgage(s) granted by Seller to its lender(s) (whether or not such loans are made for the purpose of construction financing) on the Unit or the Condominium shall be superior in right and priority to any lien of Buyer as contract vendee or otherwise and that this provision shall be self-operating, not require execution and delivery of additional documents and be for the benefit of Seller and any such lenders; provided, however, this provision shall not affect Seller's obligation to obtain release of such mortgage(s) at the Closing with respect to the Unit.

27. PRE-SALE REQUIREMENT. Seller is subject to a pre-sale requirement by its lender. If Seller has been unable to obtain qualified Purchase and Sale Agreements for at least sixty-five percent (65%) of the units of the Condominium representing an aggregate sales price of at least \$22,500,00.00, by 180 days from the date of the first contract entered into by Seller. Seller may unilaterally terminate this Agreement by delivery of written notice to Buyer and, upon refunding to Buyer the Deposit, Seller shall have fulfilled all of Seller's obligations to Buyer under this Agreement whereupon this Agreement shall be automatically terminated and Seller, Buyer and Escrow Agent shall be released from any and all duties, liabilities and obligations hereunder.

28. CONTINUING SALES PROGRAM. Buyer understands and agrees that Seller is engaged in a sales program in the Condominium and that such program will continue after the Closing of the Unit being purchased. Buyer acknowledges and agrees that after the Closing, Seller may use units owned by it or other persons as models, continue its sales program in the

Condominium (including Seller's employees present on the premises to show units, use Condominium facilities and/or property), maintain such signs on its property and on the common elements of the Condominium or make use of such of the common elements of the Condominium as may be necessary or convenient for Seller to complete its sales program, all without contribution. Buyer also acknowledges and agrees that after the Closing, certain units of the Condominium may be used as rental units by the Seller and others. The agreements of Buyer stated in this Section will survive the Closing and continue until completion of the sales program for the Condominium.

29. Adjustments with the Association. Buyer understands that Seller may advance money to the Association to permit it to pay for certain of its expenses (for example, but without limitation, insurance premiums common element utility and/or cable or other interactive communication charges and deposits, permit and license fees, charges for service contracts, salaries of employees of the Association and other similar expenses). Seller is entitled to be reimbursed by the Association for all for all of these sums advanced by Seller. The association will reimburse Seller out of regular assessments paid by Buyer and other owners as those contributions and assessments are collected, or as otherwise requested by Seller. Seller also, at its election, may receive reimbursement for these contributions of Buyers to the Condominium Association. Notwithstanding anything herein to the contrary, no initial contributions of Buyer to the Condominium Association may be used for such purposes, however, as long as any guaranty by Seller of such Association's assessments is in effect.

30. ACCESS AND UTILITIES. The construction of the paved drive(s) or road(s) which will provide access to and from the building to the nearest public right-of-way, together with the installation of utilities (sewer, water, gas, and electric service) and the construction of any condominium recreational facilities or amenities which may be described in the Declaration as being required to be constructed by Seller, shall be completed by Seller.

31. NOTICE TO BUYER PURSUANT TO LAWS OF FLORIDA. In accordance with the requirements of Florida Law, Buyer is hereby advised of the following:

**CHAPTER 558, FLORIDA STATUES CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY BRING ANY LEGAL ACTION FOR AN ALLEGED CONSTRUCTION DEFECT IN YOUR HOME. SIXTY DAYS BEFORE YOU BRING ANY LEGAL ACTION, YOU MUST DELIVER TO THE OTHER PARTY TO THIS CONTRACT A WRITTEN NOTICE REFERRING TO CHAPTER 558 OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE SUCH PERSON THE OPPORTUNITY TO INSPECT THE ALLEGED CONSTRUCTION DEFECTS AND TO CONSIDER MAKING AN OFFER TO REPAIR OR PAY FOR THE ALLEGED CONSTRUCTION DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER WHICH MAY BE MADE. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER THIS FLORIDA LAW WHICH MUST BE MET AND FOLLOWED TO PROTECT YOUR INTERESTS.**

**BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF**

**OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.**

**FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND:**

**PAYMENT MAY BE AVAILABLE FROM THE FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND IF YOU LOSE MONEY ON A PROJECT PERFORMED UNDER CONTRACT, WHERE THE LOSS RESULTS FROM SPECIFIED VIOLATIONS OF FLORIDA LAW BY A LICENSED CONTRACTOR. FOR INFORMATION ABOUT THE RECOVERY FUND AND FILING A CLAIM, CONTACT THE FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD AT THE FOLLOWING TELEPHONE NUMBER AND ADDRESS:**

**FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD  
1940 NORTH MONROE STREET  
TALLAHASSEE, FLORIDA 32399-1039  
(850) 487-1395**

32. ANTISPECULATION. Buyer hereby warrants that the Unit is to be used and occupied by Buyer as a (single family) residence. In the event that the Buyer attempts to sell the Unit within one (1) year from the date of closing, Seller shall have the right, in its sole discretion, to repurchase the Unit from the Buyer for the original purchase price paid by Buyer to Seller, without charge for any subsequent improvements made. The right of repurchase by Seller shall not be effective in the event of any one of the following events: (a) Buyer's death (if more than one individual or entity, either or both), or (b) permanent disability (of either or both), or (c) transfer, relocation, or change of employment necessitating moving. Buyer agrees to obtain Seller's waiver of this right in writing prior to any such sale. The foregoing shall survive closing. The foregoing shall survive closing. Notwithstanding anything to the contrary contained herein, the provisions of this Paragraph shall not apply to a mortgagee of the Buyer who acquires the Unit.

33. STATUTORY CANCELLATION. **THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM BY THE DEVELOPER UNDER SECTION 718.503, FLORIDA STATUTES. THIS AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND**

**THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.**

**IN WITNESS WHEREOF**, the Buyer and Seller have each affixed their signatures as of the day and year first above written.

**ANY PAYMENT IN EXCESS OF TEN PERCENT OF THE PURCHASE PRICE MADE TO DEVELOPER PRIOR TO CLOSING PURSUANT TO THIS AGREEMENT MAY BE USED FOR CONSTRUCTION PURPOSES BY THE DEVELOPER.**

Witnesses:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

(BUYER)

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

(BUYER)

INDIAN ROCKS BEACH DEVELOPMENT,  
LLC, a Florida limited liability company

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

(SELLER)

**EXHIBIT A**

**BELLA CAPRI, A CONDOMINIUM  
REAL PROPERTY DISCLOSURE STATEMENT**

TO THE BUYER:

Pursuant to law, we wish to advise you that there are certain charges relating to the closing of the purchase of your condominium unit as listed below. It is our estimate that your only closing expenses for the unit purchased from the Developer will be the items outlined in Paragraph 2 below if your purchase is for cash. If you are financing your unit, you may be subject to expenses outlined in Paragraph 3 below. If you are represented in this transaction by legal counsel, Paragraph 4 below will apply.

1. To be furnished or paid by the Seller:
  - A. Survey contained in the Condominium Documents;
  - B. Property taxes prorated to date of closing;
  - C. Water and sewer utility connection fees;
  - D. Settlement fee;
  - E. Title search fee;
  - F. Title examination fee; and
  - G. Owner's Title Insurance Policy.
  
2. Expenses to be paid by Buyer:
  - A. Property taxes subsequent to the date of closing;
  - B. Prorated assessments of the Condominium Association;
  - C. One time operating capital contribution to the Association;
  - D. Documentary stamps on the deed (currently \$.70 per \$100.00 of consideration); and
  - E. Recording the deed.
  
3. Expenses which may be incurred by Buyer if a mortgage is obtained:
  - A. Service or origination fee;
  - B. Intangible tax on mortgage (currently 2 mills);
  - C. Documentary stamps (currently \$.35 per \$100.00) on the promissory note;
  - D. Recording fee on mortgage;
  - E. Credit report;
  - F. Lender's attorney's fee;
  - G. Appraisal fee;
  - H. Mortgagee Title Insurance Policy and endorsements;
  - I. Mortgage settlement fee, title search and examination;
  - J. Documentary preparation fee;
  - K. Tax Service Fee; and
  - L. Flood certification fee.

- 4. Expenses which may be incurred by Buyer if Buyer is represented by legal counsel:
  - A. Buyer's attorney's fees.

Seller is utilizing real estate brokers or salespersons in connection with the sale of units and no such person is authorized to bind the Seller by and representation, promise or agreement other than those contained in a writing signed by Seller, nor to ask for or receive compensation from the Buyer in connection with the sale of units in the condominium. If you have further questions on the above or require specific details, please inquire of the Seller, your mortgage lender or your attorney.

AGENCY:

\_\_\_\_\_ by this document gives notice to the Buyer that it is the agent and representative of the Seller. The undersigned acknowledge(s) that this written notice was received before the undersigned signed a contractual offer, in compliance with Section 475.210(q), *Florida Statutes*, and Rule 21V-10.033, Florida Administrative Code. Pursuant to Rule 2-13.003(2), Florida Administrative Code. Buyer acknowledges that said Agent is being paid by the Seller.

RECEIPT OF THE ABOVE ACKNOWLEDGED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 200\_.

\_\_\_\_\_

\_\_\_\_\_  
BUYER(S):



## ESCROW AGREEMENT

THIS ESCROW AGREEMENT (the "Agreement") made as of this 31<sup>st</sup> day of October, 2006, by and between INDIAN ROCKS BEACH DEVELOPMENT, LLC, a Florida limited liability company, whose address is Post Office Box 1839, Tampa, Florida 33601 (the "Developer") and Foley & Lardner LLP, whose address is 100 North Tampa Street, Suite 2700, Tampa, Florida 33602 (the "Escrow Agent").

### WITNESSETH:

WHEREAS, Developer is engaged in the construction and development of a condominium in Pinellas County, Florida, to be known as Bella Capri, a Condominium.

WHEREAS, Developer shall be entering into Purchase and Sale Agreements with third parties for the purchase of condominium units in Bella Capri, a Condominium, and desires Escrow Agent to hold deposits made thereon by the Prospective Buyer, in escrow, pursuant to terms and conditions outlined below.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned Developer and Escrow Agent agree and acknowledge that Escrow Agent shall receive and hold Purchase and Sale Agreement deposits made on Purchase and Sale Agreements by Buyers of units in Bella Capri, a Condominium, pursuant to the following terms and conditions:

A. RECEIPT. Escrow Agent shall furnish a receipt for each such deposit in a timely manner, as required by the Condominium Act, and deposit said sums to the escrow account or accounts maintained by Escrow Agent for Bella Capri, a Condominium.

B. DEPOSITS TO BE HELD IN ESCROW. Each earnest money deposit and all sales proceeds from a closing, as the case may be, shall be held in escrow by Escrow Agent pursuant to these presents, and the applicable Purchase and Sale Agreement forwarded by Developer to Escrow Agent with each deposit; however, Escrow Agent shall have no responsibility for enforcing or determining compliance by Developer or Buyer with any provisions of said Purchase and Sale Agreement.

C. DEPOSITS ACCOUNT. Except for deposits in excess of ten percent (10%) of the sales price, all deposits and sales proceeds forwarded by Developer shall be deposited in a common escrow account or accounts, as determined by Escrow Agent and this Agreement. All amounts paid by Buyer in excess of ten percent (10%) of the total sales price shall be held in a special account pursuant to the provisions of Section 718.202(2) and (3), Florida Statutes. Escrowed funds shall be deposited in an escrow account or accounts of Escrow Agent, which shall be invested only in securities of the United States or an agency thereof or in accounts in institutions, the deposits of which are insured by an agency of the United States, with the exception of those funds held pursuant to Section D.(4) hereof. Each such account shall be in the name: Foley & Lardner LLP, Escrow Agent, as an escrow account deposit. Unless specified elsewhere herein, the escrowed funds received by Escrow Agent hereunder may be deposited under separate accounts or in common escrow accounts or commingled with other escrow

accounts handled by or received by Escrow Agent. Individual records shall be maintained of all funds received by the Escrow Agent. The parties understand that the Buyer shall not receive any interest on his or her deposit, unless said Buyer properly terminates the Purchase and Sale Agreement pursuant to its terms or pursuant to the Condominium Act, Chapter 718, Florida Statutes.

The escrowed funds shall at all reasonable times be available for withdrawal in full by Escrow Agent.

D. RELEASE OF PURCHASE AGREEMENT FUNDS. The escrowed Purchase and Sale Agreement funds shall be released from escrow by Escrow Agent only as follows:

1. If a Buyer properly terminates the Purchase and Sale Agreement pursuant to its terms or pursuant to the Condominium Act, Chapter 718, Florida Statutes, the escrow deposit, together with any interest earned thereon, shall be paid directly to the Buyer upon written notice signed by Buyer and Developer.

2. If a Buyer defaults in the performance of his obligations under the Buyer Contract, the Escrow Agent shall mail to the Buyer a copy of the written notice of default delivered to Escrow Agent by Developer, upon its receipt. Buyer shall then have seven (7) days following the mailing of the copy of said notice in which to deliver to Escrow Agent written notice that the Buyer is disputing the default notice or to cure the default. If the Buyer's written dispute notice is not actually received within seven (7) days following the mailing of the copy of default notice to Buyer, or the default is not cured within that time, then the escrow deposit, plus any interest earned thereon, shall be paid directly to the Developer. If Buyer's written dispute notice is timely received by Escrow Agent, then Escrow Agent's actions concerning such deposit shall be controlled by the dispute procedures provided herein.

3. If the escrow deposit of a Buyer has not been previously disbursed in accordance with the provisions of this paragraph, the deposit shall be disbursed to the Developer by Escrow Agent at the closing of the transaction, unless prior to the disbursement the Escrow Agent received from the Buyer, written notice of a dispute between the Buyer and the Developer or the Developer and Buyer agree to other treatment in writing and present such writing to Escrow Agent.

4. Those funds in an amount in excess of ten percent (10%) of the purchase price of any unit thereof delivered to Escrow Agent under a Purchase and Sale Agreement shall be placed in a special escrow account and the Developer may withdraw part or all of the funds deposited in said special escrow account; provided that any such funds withdrawn shall only be used for actual construction and development of the Condominium Property when the construction of improvements has begun and not for salaries, commissions, or expenses of salespersons or for advertising purposes.

E. DUTIES OF ESCROW AGENT. It is agreed that the duties of Escrow Agent are only such as are herein specifically provided, being purely ministerial in nature, and that Escrow Agent shall incur no liability whatever, except for willful misconduct or gross negligence, so

long as Escrow Agent has acted in good faith. Escrow Agent shall be under no responsibility in respect to any of the monies deposited with it other than faithfully to follow the instructions herein contained. Escrow Agent may confer with and take advice from counsel and shall be fully protected in any action taken in good faith in accordance with such advice. Escrow Agent shall not be required to defend any legal proceedings which may be instituted against it in respect to the subject matter of these instructions and unless requested to do so by Developer or Buyer and indemnified to the satisfaction of Escrow Agent against the cost of such defense. Escrow Agent shall not be required to institute legal proceedings of any kind. Escrow Agent shall have no responsibility for the genuineness or validity of any document or other item deposited with it, and shall be fully protected in acting in accordance with any written instructions given to it hereunder and believed by it to have been signed by the proper parties. Escrow Agent assumes no liability under this Agreement except that of a stakeholder. If there is any dispute as to whether Escrow Agent is obligated to deliver the escrow monies, or as to whom the sum is to be delivered, Escrow Agent will not be obligated to make any delivery of the sum, but in such event may hold the sum until receipt by Escrow Agent of an authorization in writing signed by all the persons having interest in such dispute, directing the disposition of the sum, or in the absence of such authorization, Escrow Agent may hold the sum until the final determination of the rights of the parties in an appropriate proceeding. If such written authorization is not given, or proceedings for such determination are not begun and diligently continued, Escrow Agent shall have the right, but not the obligation, to bring an appropriate action or proceeding for leave to deposit the sum in court by interpleader or otherwise, pending such determination, and thereupon shall be relieved from any further responsibilities or liabilities in connection with such deposit or deposits. In making delivery of the monies in the manner provided for in this Agreement, Escrow Agent shall have no further liability in the matter.

F. RELIANCE. Developer agrees that where any further instructions, documents or papers are delivered to Escrow Agent in connection with said escrow by either Developer or by a Buyer of a Unit, Escrow Agent can assume and rely upon the assumption that said documents or papers are genuine, executed by the person or persons by whom the same purport to be executed, and that the person presenting or tendering the same is duly authorized to do so. Where any documents, papers or money are to be delivered or paid over to the agent of any party and such agent has apparent authority in writing and Escrow Agent relies on such apparent authority and delivers such documents or papers or pays out any money in good faith, Escrow Agent shall not be liable to Developer or to any Buyer of a Unit or any third persons for any loss or damage growing out of or occasioned thereby. The exoneration of Escrow Agent from liability hereunder shall not be applicable in cases of willful default or fraud upon the part of Escrow Agent or its servants, agents or employees.

G. TERMINATION. Either Escrow Agent or Developer shall have the right to terminate this Agreement as it affects any future deposits to be made by giving written notice of such termination. In such event, no further deposits hereunder shall be made, but the parties shall remain bound by the terms of this Agreement as to the then existing deposits unless adequately managed by agreement with a successor Escrow Agent.

H. SEVERABILITY. If any provision hereof shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity

only, without invalidating the remainder of such provisions or of the remaining provisions of this Agreement.

I. FLORIDA CONTRACT. This Agreement shall be deemed a Florida contract and shall be construed according to the laws of the State of Florida, regardless of whether this Agreement is executed by certain of the parties hereto in other states.

J. BINDING EFFECT. This Agreement shall bind the successors and assigns of the parties hereto. It constitutes the entire understanding of the parties, and it may not be modified except in writing.

K. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed an original.

L. EXECUTION. This Agreement shall not be effective nor shall it have any force and effect whatsoever until all of the parties hereto have duly executed this Agreement.

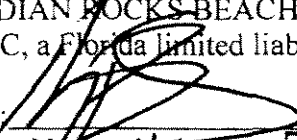
M. DESCRIPTIVE HEADINGS. The descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

**[REST OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

“DEVELOPER”:

INDIAN ROCKS BEACH DEVELOPMENT,  
LLC, a Florida limited liability company

By:   
Print Name: HENRY R. SUAREZ  
Print Title: MANAGER

“ESCROW AGENT”:

FOLEY & LARDNER LLP

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.


“DEVELOPER”:

INDIAN ROCKS BEACH DEVELOPMENT,  
LLC, a Florida limited liability company

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_

“ESCROW AGENT”:

FOLEY & LARDNER LLP

By:  \_\_\_\_\_  
Print Name: James M. Liddy  
Print Title: Attorney

### RECEIPT FOR CONDOMINIUM DOCUMENTS

The undersigned acknowledges that the documents checked below have been received or, as to plans and specifications, made available for inspection.

Name of Condominium: Bella Capri, a Condominium

Address of Condominium: 604 Gulf Boulevard, Indian Rocks Beach, Florida 33785

Place a check in the column by each document received or, for the plans and specifications, made available for inspection. If a document uses a different name, substitute the correct name or place in parenthesis. If an item does not apply, place "N/A" in the column.

| DOCUMENT   | RECEIVED<br>BY HARD<br>COPY | RECEIVED BY<br>ALTERNATIVE<br>MEDIA |
|--|-----------------------------|-------------------------------------|
| Prospectus Text  | ✓                           |                                     |
| Declaration of Condominium   | ✓                           |                                     |
| Articles of Incorporation  | ✓                           |                                     |
| Bylaws   | ✓                           |                                     |
| Estimated Operating Budget   | ✓                           |                                     |
| Form of Agreement for Sale or Lease  | ✓                           |                                     |
| Rules & Regulations  | ✓                           |                                     |
| Covenants and Restrictions   | ✓                           |                                     |
| Ground Lease   | N/A                         |                                     |
| Management and Maintenance Contracts for More Than One Year  | ✓                           |                                     |
| Renewable Management Contracts   | ✓                           |                                     |
| Lease of Recreational and Other Facilities to be Used Exclusively by Unit Owners of Subject Condominium(s)                     | N/A                         |                                     |
| Lease of Recreational and Other Facilities to be Used by Unit Owners with Other Condominiums                                   | N/A                         |                                     |
| Declaration of Servitude   | N/A                         |                                     |
| Sales Brochures  | ✓                           |                                     |
| Phase Development Description  | N/A                         |                                     |
| Form of Unit Lease if a Leasehold  | N/A                         |                                     |
| Description of Management for Single Management of Multiple Condominiums   | N/A                         |                                     |
| Conversion Inspection Report   | N/A                         |                                     |
| Conversion Termite Inspection Report   | N/A                         |                                     |
| Plot Plan  | ✓                           |                                     |
| Floor Plan   | ✓                           |                                     |
| Survey of Land and Graphic Description of Improvements   | ✓                           |                                     |
| Frequently Asked Questions & Answers Sheet   | ✓                           |                                     |
| Financial information  | N/A                         |                                     |
| State or Local Acceptance/Approval of Dock or Marina Facilities  | N/A                         |                                     |
| Evidence of Developer's Ownership, Leasehold or Contractual Interest in the Land Upon Which the Condominium is to be Developed | ✓                           |                                     |
| Executed Escrow Agreement  | ✓                           |                                     |
| Other Documents (Insert Name of Document)  | N/A                         |                                     |
| Alternative Media Disclosure Statement   | N/A                         |                                     |
| Plans and Specifications (make available upon request)   | ✓ (made available)          |                                     |

**THE PURCHASE AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF EXECUTION OF THE PURCHASE AGREEMENT BY THE BUYER AND RECEIPT BY THE BUYER OF ALL OF THE DOCUMENTS REQUIRED TO BE DELIVERED TO HIM OR HER BY THE DEVELOPER. THE AGREEMENT IS ALSO VOIDABLE BY THE BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED ALL OF THE DOCUMENTS REQUIRED. BUYER'S RIGHT TO VOID THE PURCHASE AGREEMENT SHALL TERMINATE AT CLOSING.**

Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature of Purchaser or Lessee

\_\_\_\_\_  
Signature of Purchaser or Lessee



**THIS INSTRUMENT PREPARED BY  
AND RETURN TO:**

*Thomas M. Little, Esquire  
Foley & Lardner LLP  
Post Office Box 3391  
Tampa, Florida 33601-3391*

Grantee's Social Security No.: \_\_\_\_\_  
Tax Folio No.: \_\_\_\_\_

**SPECIAL WARRANTY DEED**

THIS SPECIAL WARRANTY DEED, made this \_\_\_\_ day of \_\_\_\_\_, 2006, between INDIAN ROCKS BEACH DEVELOPMENT, LLC, a Florida limited liability company, whose address is Post Office Box 2839, Tampa, Florida 33601 (the "Grantor"), and \_\_\_\_\_, whose address is \_\_\_\_\_, (the "Grantee").

**WITNESSETH:**

That the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, its successors and assigns forever, all that certain parcel of land lying and being in the County of Pinellas, State of Florida, as more particularly described as follows:

Unit No. \_\_\_ of Bella Capri, a Condominium, together with its undivided share in the common elements appurtenant thereto; according to the Declaration of Condominium and related documents as recorded in Official Records Book \_\_\_ beginning at Page \_\_\_ and the Plat thereof recorded in Condominium Plat Book \_\_\_ on Page \_\_, all in the Public Records of Pinellas County, Florida, and amendments thereto.

TOGETHER WITH all the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining.

SUBJECT TO real estate taxes for 200\_\_ and all subsequent years, and all declarations, covenants, easements and restrictions pertaining to the Property, recorded in the Public Records of Pinellas County, Florida.

TO HAVE AND TO HOLD the above described premises, with the appurtenances, unto the said Grantee, its successors and assigns, in fee simple forever.

And the Grantor does specially warrant the title to said land subject to the matters referred to above and will defend the same against the lawful claims of all persons claiming by, through or under the Grantor, but not otherwise.

IN WITNESS WHEREOF, the Grantor has caused these presents to be duly authorized in its name and by those thereunto duly authorized, the day and year first above written.

WITNESSES:

“Grantor”:

INDIAN ROCKS BEACH  
DEVELOPMENT, LLC, a Florida limited  
liability company

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, by \_\_\_\_\_, as \_\_\_\_\_ of Indian Rocks Beach Development, LLC, a Florida limited liability company, on behalf of the limited liability company, who is personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC  
Name: \_\_\_\_\_  
Serial No. \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

**THIS INSTRUMENT PREPARED BY  
AND RETURN TO:**

*Stephen J. Szabo, III, Esq.*  
Foley & Lardner LLP  
100 N. Tampa St.  
Suite 2700  
Tampa, FL 33602

**WARRANTY DEED**

THIS INDENTURE, made this 8<sup>th</sup> day of June 2006, by Robert R. Decker, Delane D. Ball and Linda D. Leonard (collectively, "Grantor"), in favor of Indian Rocks Beach Development, LLC, a Florida limited liability company, whose address is P.O. Box 1839, Tampa, Florida 33601 ("Grantee").

**WITNESSETH:**

That the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, to it in hand paid, the receipt whereof is hereby acknowledged, by these presents do grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, its successors and assigns forever, all of that certain parcel of land lying and being in the County of Pinellas, State of Florida, as more particularly described in the Exhibit A attached hereto and by this reference made a part hereof.

TOGETHER WITH all the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining.

SUBJECT TO real estate taxes for 2006 and all subsequent years, and the easements, restrictions, and reservations of record.

TO HAVE AND TO HOLD the above described premises, with the appurtenances, unto the said Grantee, its successors and assigns, in fee simple forever.

AND Grantor hereby covenants with Grantee that Grantor is lawfully seized of the land in fee simple; that Grantor has good right and lawful authority to sell and convey the land; that Grantor hereby fully warrants the title to the land and will defend the same against the lawful claims of all persons whomsoever; and that the land is free of all encumbrances, except taxes accruing subsequent to December 31, 2005, and easements, restrictions and reservations of record.

IN WITNESS WHEREOF, the Grantor has caused these presents to be duly authorized in its name and by those thereunto duly authorized, the day and year first above written.

WITNESSES:

Nils Knutstad

Print Name: NILS KNUSTAD

Stephen J. Szabo

Print Name: Stephen J. Szabo

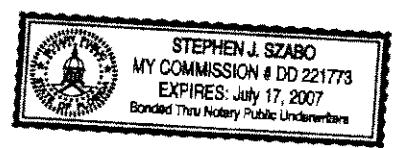
Robert R. Decker

Robert R. Decker  
c/o 100 Posada del Sol  
Address: NOVATO, CA  
94949-6345

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 5th day of June, 2006, by Robert R. Decker. He is personally known to me or has produced Florida Drivers License as identification.

Stephen J. Szabo  
NOTARY PUBLIC  
Name: \_\_\_\_\_  
Serial No. \_\_\_\_\_  
My Commission expires: \_\_\_\_\_



WITNESSES:

[Signature]  
Print Name: Anthony Ho

[Signature]  
Delane D. Ball

[Signature]  
Print Name: TJA WALLACE

Address: 11826 Cedar Pass ct  
Houston, TX 77077

STATE OF TEXAS  
COUNTY OF HARRIS

The foregoing instrument was acknowledged before me this 6 day of JUNE, 2006, by Delane D. Ball. He/She is personally known to me or has produced DRIVERS LICENSE as identification.

[Signature]  
NOTARY PUBLIC  
Name: Toya Shanks-Wallace  
Serial No. \_\_\_\_\_  
My Commission expires:



WITNESSES:

Robyn R. Conklin  
Print Name: Robyn R. Conklin

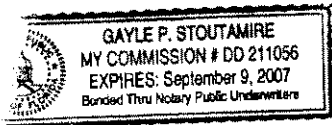
[Signature]  
Print Name: CYNTHIA TH. BOORNE

[Signature]  
Linda D. Leonard

Address: 1725 Tracy Lane  
Panama City, FL  
32405

STATE OF Florida  
COUNTY OF Bay

The foregoing instrument was acknowledged before me this 6 day of June, 2006, by Linda D. Leonard. She is personally known to me or has produced \_\_\_\_\_ as identification.



Gayle Stoutamire  
NOTARY PUBLIC  
Name: Gayle Stoutamire  
Serial No. DD 211056  
My Commission expires: 9-9-2007

**EXHIBIT A**  
**Legal Description**

Lot 12 and the South 1/2 of Lot 13, Block 1, Haven Beach, according to the plat thereof, as recorded in Plat Book 5, Page 27, Public Records of Pinellas County, Florida.

**EXHIBIT A**  
**Legal Description**

Lot 12 and the South  $\frac{1}{2}$  of Lot 13, Block 1, Haven Beach, according to the plat thereof, as recorded in Plat Book 5, Page 27, Public Records of Pinellas County, Florida.

**THIS INSTRUMENT PREPARED BY  
AND RETURN TO:**

*Stephen J. Szabo, III, Esq.*  
Foley & Lardner LLP  
100 N. Tampa St.  
Suite 2700  
Tampa, FL 33602

Tax Parcel No: \_\_\_\_\_  
Grantee Social Security No: \_\_\_\_\_

**SPECIAL WARRANTY DEED**

THIS INDENTURE, made this 3<sup>rd</sup> day of August, 2005, by Cloyd A. Petro, a married man, whose address is 200 Driftwood Lane, Largo, FL 33770 ("Grantor"), in favor of INDIAN ROCKS BEACH DEVELOPMENT, LLC, a Florida limited liability company, whose address is P.O. Box 1839, Tampa, FL 33601 ("Grantee").

**WITNESSETH:**

That the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, to it in hand paid, the receipt whereof is hereby acknowledged, by these presents do grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, its successors and assigns forever, all of that certain parcel of land lying and being in the County of Pinellas, State of Florida, as more particularly described in the Exhibit A attached hereto and by this reference made a part hereof.

TOGETHER WITH all the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining.

SUBJECT TO real estate taxes for 2005 and all subsequent years, and the easements, restrictions, and reservations of record.

TO HAVE AND TO HOLD the above described premises, with the appurtenances, unto the said Grantee, its successors and assigns, in fee simple forever.

And the Grantor does specially warrant the title to said land subject to the matters referred to above and will defend the same against the lawful claims of all persons claiming by, through or under the Grantor, but not otherwise.

THE PROPERTY IS NOT THE HOMESTEAD PROPERTY OF GRANTOR OR HIS SPOUSE.



IN WITNESS WHEREOF, the Grantor has caused these presents to be duly authorized in its name and by those thereunto duly authorized, the day and year first above written.

WITNESSES:

*Jannette Hayes*  
Print Name: Jannette Hayes

*Cloyd A. Petro*  
CLOYD A. PETRO

*Tamara L. Todd*  
Print Name: Tamara L. Todd

STATE OF FLORIDA  
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this 2 day of August, 2005, by Cloyd A. Petro, a married man. He is personally known to me or has produced \_\_\_\_\_ as identification.

*Tamara L. Todd*

NOTARY PUBLIC

Name: \_\_\_\_\_

Serial No. \_\_\_\_\_

My Commission expires:



**Tamara L. Todd**  
Commission # DD354800  
Expires: OCT. 25, 2008  
Bonded Thru  
Atlantic Bonding Co., Inc.

UNOFFICIAL COPY

**EXHIBIT A**  
**Legal Description**

LOTS 8, 9, 10, 11, 14, 15 AND NORTH ONE-HALF OF 13, AND ALL VACATED BEACH DRIVE LYING WEST OF LOTS 8, 9, 10 AND 11 IN BLOCK 1, OF HAVEN BEACH SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, AT PAGE 27, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA

DBR Form 33-032

FREQUENTLY ASKED QUESTIONS AND ANSWERS SHEET

**BELLA CAPRI CONDOMINIUM ASSOCIATION, INC.**

As of November 1, 2006

Name of Condominium Association (date)

**Q: What are my voting rights in the Condominium Association?**

**A:** *The Owner or Owners of a single Condominium Unit shall collectively be entitled to one vote for that condominium unit. Please refer to Paragraph 11(c) of the Declaration.*

**Q: What restrictions exist on my right to use my unit?**

**A:** *Each Condominium Unit shall be used as a residence and/or home office only, except as otherwise herein expressly provided, all in accordance with all applicable county and state codes, ordinances and regulations. Home office use of a Unit shall only be permitted to the extent permitted by law and to the extent that the office is not staffed by employees, is not used to receive clients and/or customers and does not generate additional visitors or traffic into the Unit or on any part of the Condominium Property. There are a number of additional use restrictions set forth in Paragraph 21 of the Declaration of Condominium pertaining to the use of the Condominium Unit.*

**Q: What restrictions exist on the leasing of my unit?**

**A:** *Condominium Units may not be leased without the prior consent of the Association, nor for a period of less than thirty (30) days. In addition, no Condominium Unit shall be sold on a time-share basis. Please refer to Paragraph 19 of the Declaration.*

**Q: How much are my assessments to the Condominium Association for my unit type and when are they due?**

**A:** *The monthly assessment for each Unit Owner in the Condominium is \$518.33. Assessments are due on the first day of each month or as established by the Board.*

**Q: Do I have to be a member in any other association? If so, what is the name of the association and what are my voting rights in this association? Also, how much are my assessments?**

**A:** *No, a Unit Owner is not required to be a member in any other association.*

**Q: Am I required to pay rent or land use fees for recreational or other commonly used facilities? If so, how much am I obligated to pay annually?**

**A:** *Unit Owners are not required to pay any rent or land use fees for recreational or other commonly used facilities.*

**Q: Is the Condominium Association or other mandatory membership association involved in any court cases in which it may face liability in excess of \$100,000.00? If so, identify each such case.**

**A:** *The Condominium Association is not involved in any court cases in which association may face liability in excess of \$100,000.00.*

**NOTE: THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES AND EXHIBITS THERETO, THE SALE CONTRACT, AND THE CONDOMINIUM DOCUMENTS.**

**SUMMARY OF USE RESTRICTIONS  
BELLA CAPRI, A CONDOMINIUM**

A summary of specific restrictions contained in the Declaration of Condominium of Bella Capri, a Condominium (the "Declaration"), regarding Condominium Unit Owners and Use of the Condominium Property are as follows:

A. **USE RESTRICTIONS.** In addition to other obligations and duties heretofore set out in this Declaration, every Unit Owner or occupant of a Condominium Unit shall abide by the following use restrictions and any rules and regulations adopted by the Association which are not inconsistent with the provisions set forth herein or the Exhibits to the Declaration.

**THERE ARE NO RESTRICTIONS ON CHILDREN RESIDING IN THE CONDOMINIUM.**

1. Each Condominium Unit shall be used as a residence and/or home office only, except as otherwise herein expressly provided, all in accordance with all applicable county and state codes, ordinances and regulations. Home office use of a Unit shall only be permitted to the extent permitted by law and to the extent that the office is not staffed by employees, is not used to receive clients and/or customers and does not generate additional visitors or traffic into the Unit or on any part of the Condominium Property. The provisions hereof shall not be applicable to Units used by the Developer for model apartments, sales offices, management services, repairs, maintenance or construction.

2. All automobiles shall be parked only in the parking spaces so designated for that purpose by the Association, and in accordance with the Association's rules and regulations concerning same. Unit Owners may not park in the guest parking spaces. Each Unit Owner agrees to notify all guests of the regulations regarding parking, and to require guests to abide by such parking regulations. No parking of commercial trucks of any nature or similar commercial vehicles shall be permitted for a period of more than four hours except temporarily during periods for purposes of actual construction or repair of a structure, or moving in or out and for moving or transferring furniture or for grounds maintenance. No commercial truck, commercial van, or other commercial vehicle, and no recreation vehicle shall be permitted to be parked overnight. Notwithstanding the foregoing, vans equipped for personal passenger use shall be permitted, even if such vans are not kept fully enclosed inside a structure. No boat, boat trailer or other trailer of any kind, camper, mobile home, motor home or disabled vehicle shall be permitted to be parked or stored on the Condominium Property, unless stored in the Unit Owner's assigned spaces, to the extent the Unit Owner has one. Any such vehicle or any of the properties mentioned in this subparagraph may be removed by the Association at the expense of the Unit Owner owning and/or responsible for the same, and the Unit Owner owning and/or responsible for the same shall have no right of recourse against the Association therefor. No repairing of automobiles, trailers, boats, campers, golf carts, or any other property of a Unit Owner will be permitted on the Condominium Property.

3. No commercial truck, commercial van, or other commercial vehicle, and no boat, boat trailer or other trailer of any kind, camper, mobile home, disabled vehicle, motor

home or recreational vehicle shall be used on the Condominium Property as a domicile or residence, either permanent or temporary.

4. Each Unit Owner shall maintain his or her Condominium Unit in good condition and repair, including all internal surfaces within or surrounding his or her Condominium Unit, and each Unit Owner shall maintain and repair the fixtures therein and shall promptly pay for any utilities which are metered separately to his or her Condominium Unit. Landscaped and grassed areas shall be used only for the purposes intended. No articles belonging to Unit Owners or residents shall be kept in such areas, temporarily or otherwise.

5. Each Unit Owner shall maintain his or her Condominium Unit in a clean and sanitary manner.

6. Without limiting the generality of Section 28(a) of the Declaration, no Condominium Unit Owner shall cause or allow improvements or changes to any Unit, Limited Common Elements appurtenant thereto, Common Elements or Association Property, including, but not limited to, painting or other decorating of any nature, installing any electrical wiring, television antenna, machinery, or air-conditioning units, which in any manner change the appearance of any portion of the Building, without obtaining the prior written consent of the Association (in the manner specified in Section 28(a) of the Declaration). Curtains, blinds, shutters, levelors, or drapes (or linings thereof) which face the exterior windows or glass doors of Units shall be white or off-white in color and shall be subject to disapproval by the Association, in which case they shall be removed and replaced with acceptable items.

7. No nuisances (as defined by the Association) shall be allowed on the Condominium or Association Property, nor shall any use or practice be allowed which is a source of annoyance to occupants of Units or which interferes with the peaceful possession or proper use of the Condominium and/or Association Property by its residents, occupants or members. No activity specifically permitted by the Declaration, shall be deemed a nuisance, regardless of any noises and/or odors emanating therefrom (except, however, to the extent that such odors and/or noises exceed limits permitted by applicable law). Additionally, any construction and/or remodeling work on a Condominium Unit by anyone other than the Developer may only occur during the business hours of 9:00 to 5:00 on Monday through Friday, and not at all on holidays and/or weekends.

8. Each Unit Owner may only identify his or her Condominium Unit by a name plate if approved by the Association and mounted in a place and manner so approved. All mailboxes shall be approved by the Association prior to installation. No newspaper tubes or driveway reflectors shall be installed.

9. No signs, advertising, or notices of any kind or type whatsoever, including, but not limited to, "For Rent" or "For Sale" signs, shall be permitted or displayed on any Condominium Unit or, Common Element or Limited Common Element; nor shall the same be posted or displayed in such a manner as to be visible from the exterior of any Condominium Unit, without the prior written approval of the Board of Directors, except that the Developer can post such signs until all of the Condominium Units owned by it are sold.

10. Unless installed by the Developer or meeting the sound insulation specifications set forth herein (as same may be modified from time to time), hard and/or heavy surface floor coverings, such as tile, marble, wood, and the like will be permitted only in foyers, kitchens and bathrooms. Although prior Board approval is not required, the installation of any hard and/or heavy surface floor coverings must meet the following specifications: the aggregate sound isolation and acoustical treatment shall carry a minimum Sound Transmission Classification (SIC) of 50, and the installation of the foregoing insulation materials shall be performed in a manner that provides proper mechanical isolation of the flooring materials from any rigid part of the building structure, whether of the concrete subfloor (vertical transmission) or adjacent walls and fittings (horizontal transmission) and must be installed prior to the Unit being occupied. Notwithstanding the foregoing, the floor coverings (and insulation and adhesive material therefor) installed on any balcony, terrace, patio and/or lanai shall not exceed a thickness that will result in the finish level of the balconies, terraces, patios and/or lanais being above the bottom of the scuppers. Also, the installation of any improvement or heavy object must be submitted to and approved by the Board, and be compatible with the overall structural design of the building. All areas within a Unit other than foyers, kitchens and bathrooms are to receive sound absorbent, less dense floor coverings, such as carpeting or hard surface floor coverings meeting the specifications described above. The Board will have the right to specify the exact material to be used on balconies, terraces, patios and/or lanais. Any use guidelines set forth by the Association shall be consistent with good design practices for the waterproofing and overall structural design of the Building. Owners will be held strictly liable for violations of these restrictions and for all damages resulting therefrom and the Association has the right to require immediate removal of violations. **Applicable warranties of the Developer, if any, shall be voided by violations of these restrictions and requirements. Each Owner agrees that sound transmission in a high-rise building such as the Condominium is very difficult to control, and that noises from adjoining or nearby Units and or mechanical equipment can often be heard in another Unit. The Developer does not make any representation or warranty as to the level of sound transmission between and among Units and the other portions of the Condominium Property, and each Owner shall be deemed to waive and expressly release any such warranty and claim for loss or damages resulting from sound transmission.**

11. No improper, offensive, hazardous or unlawful use shall be made of the Condominium or Association Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium and/or Association Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of the Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions hereof. No activity specifically permitted by the Declaration shall be deemed a nuisance or a violation hereof.

12. All damage to Condominium Property caused by the moving and/or carrying of articles therein shall be paid by the Unit Owner or person in charge of such articles.

13. Soliciting is strictly forbidden. Unit Owners should notify the Association if a solicitor appears, and appropriate action will be taken.

14. No Unit Owner or resident of a Condominium Unit shall permit or suffer anything to be done or kept in his or her Condominium Unit which will increase the insurance rates on his Condominium Unit, the Limited Common Elements, if any, or the Common Elements, or which will obstruct the rights or interfere with the right of other Unit Owners or residents or annoy them by unreasonable noises or otherwise; nor shall an Unit Owner of a Condominium Unit commit or permit any nuisances, immoral or illegal act in a Condominium Unit, the Limited Common Elements, if any, or on the Common Elements.

15. Unit Owners shall not do anything within their Units or on the Common Elements which would adversely affect the safety or soundness of the Common Elements or any portion of the Condominium Property.

16. Each Unit Owner or resident shall conform to and abide by the Bylaws and uniform rules and regulations in regard to the use of the Condominium Unit, Limited Common Elements and Common Elements which may be adopted in writing from time to time by the Board of Directors of the Association, and to see that all persons using the Unit Owner's property by, through, or under him do likewise.

17. Each Unit Owner or resident shall allow the Association or its authorized agent to enter any Condominium Unit and the improvements thereon during reasonable hours when necessary for the maintenance, repair and/or replacement of any Common Elements which include Limited Common Elements or for making emergency repairs which are necessary to prevent damage to the Common Elements which include the Limited Common Elements or to another Condominium Unit or Condominium Units.

18. Unit Owners or residents shall make no repairs to any plumbing or electrical wiring within a Unit except by a plumber or electrician licensed in Pinellas County, Florida.

19. No outside antennas, antenna poles, antenna masts, electronic devices, antenna towers or citizen band (CB) or amateur band (ham) antennas shall be permitted except as approved by the Board of Directors in writing. No outside satellite receptor dishes or devices or any other type of electronic device now in existence, or that may hereafter come into existence, that is utilized or designed to be utilized for the transmission or reception of electronic or other type of signal shall be allowed without the prior written approval of the Board of Directors. A flagpole for display of the American flag only and any other flag approved in writing by the Board of Directors shall be permitted and its design and location must be first approved in writing by the Board of Directors; provided, however, any Unit Owner may display one portable, removable United States flag in a respectable way and on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day may display in a respectful way portable, removable official flags, not larger than four and one-half feet by six feet, that represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, regardless of any declaration rules or requirements dealing with flags. An approved flagpole shall not be used as an antenna.

20. Solar collectors shall be permitted only at locations and on structures as are first approved in writing by the Board of Directors.

21. Any change to the exterior lighting of a Condominium Unit must be approved in writing by the Board of Directors.

22. No household pets shall be permitted by Unit Owners on the Condominium Property except in accordance with the pet behavior criteria established in the Rules and Regulations for the Condominium. Furthermore, all permitted pets must be contained in the Unit Owner's Condominium Unit and shall not be permitted to roam free. Further, all permitted pets must be leashed at all times when not located in the Condominium Unit and may be walked only in designated areas. No goats, chickens, pigeons or any other obnoxious animals, fowl or reptiles shall be kept or permitted to be kept. Commercial activities involving pets shall not be allowed.

23. No Unit Owner may alter or change the flooring which is not supplied by the Developer in a Condominium Unit, patios or balconies unless the Board of Directors has approved the plan for providing adequate noise insulation.

24. Personal property of Unit Owners including bicycles, mopeds, and similar items shall be kept in the Condominium Units or storage areas for the Condominium Unit except when in use.

25. Unit Owners shall not use the guest parking spaces for their own personal use.

26. All window coverings, which may only be blinds, drapes or curtains, shall be lined with white or off white lining on the side exposed to the public, and no sheets nor no tin foil shall be permitted as a form of window covering.

27. Unit Owners shall not be permitted access to or use of the equipment/mechanical rooms, the manager's residence, if any, and the roof of the Building, except for the permitted designated areas on the roof.

28. There shall be no barbecuing nor grilling on any of the patios or balconies, except for a unit equipped with an outdoor kitchen by the Developer.

29. No Unit Owner may hold or conduct an open house for sale of the Unit Owner's Unit, without the prior written approval of the Board of Directors.

30. The Board of Directors of the Association has the right to establish, modify and amend additional rules and regulations governing the conduct of all residents and also the use of the Condominium Units, Limited Common Elements and Common Elements, so long as such additional rules and regulations are not inconsistent with the terms and conditions of the Declaration.

B. EFFECT ON DEVELOPER. Subject to the following exceptions, the restrictions and limitations set forth herein shall not apply to the Developer nor to Units owned by the



Developer. The Developer shall not be exempt from the restrictions, if any, relating to requirements that leases or lessees be approved by the Association, pet restrictions, occupancy of Units based on age and vehicular restrictions, except as such vehicular restrictions relate to the Developer's construction, maintenance and marketing activities.

The Association has the right to establish additional rules and regulations governing the conduct of all residents and also the use of the Condominium Units, Limited Common Elements and Common Elements, so long as such additional rules and regulations are not inconsistent with the terms and conditions of the Declaration. The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained herein for good cause shown.