

JoAnne Holman, Clerk of the Circuit Court - St. Lucie County
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DECLARATION OF CONDOMINIUM

FOR

TROPICAL SHOPPES OF BAYSHORE CONDOMINIUM

FORTUNE PROPERTIES OF ST. LUCIE COUNTY, INC., a Florida corporation, as owner of the real property hereinafter described and as developer of the improvements thereon (hereinafter called the "Developer"), for itself, its successors, grantees, assignees and their transferees, makes the following declaration:

SECTION I PURPOSE

1.1 **Submission.** The purpose of this Declaration is to submit the lands described in this instrument and improvements on such lands, to the condominium form of ownership and use, in the manner provided by Chapter 718, Florida Statutes (hereinafter referred to as the "Condominium Act"), and the Developer does hereby submit the land described in Exhibit "A" hereto annexed and made a part hereof and the improvements on such land to the condominium form of ownership and use upon the terms and conditions herein set forth.

1.2 **Covenants.** All provisions of this Declaration shall be construed to be perpetual covenants running with the land and with every part thereof and interest therein, and every Unit Owner and every person claiming any title or interest in the land or any part thereof or any incorporated thereon, and their heirs, executors and administrators, successors and assigns of, shall be bound by all of the provisions of the Declaration, unless this Declaration shall be terminated pursuant to the Condominium Act or as herein provided. Both the burdens imposed and the benefits conferred by this Declaration shall run with each condominium parcel as herein defined.

1.3 **Name.** The name of the condominium created by this Declaration is Tropical Shoppes of Bayshore Condominium.

1.4 **Estates.** The condominium estates hereby created shall be fee simple estates; no time-share estates are created by this Declaration.

SECTION II DEFINITIONS

2.1 **General.** Except as expressly hereinafter defined the terms used in this Declaration and in the Articles of Incorporation, the Bylaws and the Rules and Regulations of the Association, shall have the meaning stated in the

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Box 28

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Condominium Act and as follows, unless the context otherwise requires. Further, whenever the context so requires, the use of any gender shall be deemed to include all genders, the use of the plural shall include the singular and the singular shall include the plural.

2.2 **Specific.** The following terms shall have the specific meanings herein defined, to wit:

(a) **Assessment** means a share of the funds required for the payment of the Common Expense which is from time to time assessed against a Unit Owner.

(b) **Association** means Tropical Shoppes of Bayshore Condominium, the corporate entity responsible for the operation of the Condominium.

(c) **Board of Directors** means the board of directors responsible for administration of the Association.

(d) **Bylaws** means the bylaws of the Association existing from time to time.

(e) **Common Element** includes within its meaning the Condominium Property which is not included within the Units; easements through Units or conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to a Unit and to any Common Element; easements of support in every portion of a Unit which contribute to the support of a building; and easements and property required for the furnishing of utilities and other services to more than one (1) Unit or to a Common Element.

(f) **Common Expense** means any expense or obligation for the payment of money properly incurred by the Association for the Condominium.

(g) **Common Surplus** means the excess of all receipts of the Association, including, but not limited to, assessments, rents, profits and all revenues on account of the Common Elements, over the Common Expenses.

(h) **Condominium Property** means the lands, leaseholds and personal property that are subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto for use in connection with the Units and the Commons Elements.

(i) **Declaration** means the instrument or instruments by which the Condominium Property is created, as from time to time amended.

(j) **Developer** means the entity which creates a condominium or offers condominium parcels for sale or lease

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in the ordinary course of business, but does not include an owner or lessee or a unit owner who has acquired his unit for his own occupancy or lease

(k) **Institutional Mortgagee** means the owner and holder of a mortgage encumbering a Unit which owner and holder of said mortgage is either a bank, a life insurance company, a federal or state savings and loan association, a real estate or mortgage investment trust, a credit corporation having assets in excess of Fifty Million Dollars, a federal or state agency, the Federal National Mortgage Association, its successors and assigns, the Developer, any other generally recognized lender and investor, and such other mortgagee as shall be acceptable to and approved by the Board of Directors of the Association.

(l) **Limited Common Element** means a Common Element reserved by the Declaration for the use of a certain Unit to the exclusion of other Units.

(m) **Operation** means the operation, administration and management of the Condominium Property and the Association.

(n) **Unit** means a part of the Condominium Property which is subject to exclusive ownership as specified in the Declaration and includes an undivided share in the Common Elements and the Common Surplus.

(o) **Unit Owner** means the owner of a Unit.

(p) **Utility Service** shall include, but shall not be limited to, electric power, gas, hot and cold water, heating and refrigeration, air conditioning, garbage and sewage disposal, cable television and communication equipment and other services required by governmental authorities.

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SECTION III DEVELOPMENT PLANS

3.1 **Improvements.** Annexed hereto and made a part hereof as Exhibit "B" is a survey and Plot Plan showing the approximate locations of all existing and proposed building and improvements that may ultimately be contained within the Condominium Property and graphic descriptions of all units including their identification numbers, locations and dimensions. The legends and notes contained in said Exhibit are incorporated herein and made a part hereof by this reference. Nonmaterial changes in the relative locations of the improvements may be made by the Developer without notice to or approval of the Unit Owners.

3.2 **Adjoining Units.** Where adjoining Units have been acquired by the same owner and combined into a single place of business, the plot plan shown in Exhibit "B" may not

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reflect the interior plans of the combined Units, but the exterior boundaries of the combined Units remain the same. Should any Units be combined, combined Units shall exist as separate Units as described in this Declaration for the purpose of applying the provisions of this Declaration and all exhibits attached hereto.

3.3 Unit Identification. Each Unit will be identified by the number of the Unit in the building, as shown on the Plot Plan.

3.4 Completion of Improvements. The construction of the condominium improvements are not substantially complete. Pursuant to Florida Statute Section 718.104(e) the Developer or Association shall amend the Declaration upon substantial completion of the improvements. For this purpose the Developer and the Association shall each be deemed to have an irrevocable power of attorney on behalf of all Unit Owners to execute any such amendment.

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SECTION IV
UNIT BOUNDARIES

4.1 Boundaries. Each Unit shall have as its boundary the interior undecorated, surfaces of the ceiling, floor and perimeter walls bounding the Unit, extended to intersections with each other.

4.2 Boundaries - Further Defined. Except as provided in Section 4.3 the boundaries of the Unit shall not include all of those spaces and improvements lying outside of the undecorated or unfinished inner surfaces of the perimeter walls and those surfaces above the undecorated finished ceilings of each Unit, and those surfaces below the undecorated finished floor of each Unit, and further, shall not include those spaces and improvements lying between the undecorated or unfinished inner surfaces of all interior bearing walls, floors, ceilings and other partitions, and further, shall exclude all pipes, ducts, wires, conduits and other utilities running through any interior floor, ceiling, wall or partition for the furnishing of utility services to other Units or for the Common Elements. Any damage caused to the Unit or the Common Elements or any property stored therein by using this storage area shall be at the sole expense of the Unit Owner.

4.3 Windows and Doors. A Unit shall include windows and doors in the perimetrical boundaries of the Unit. The Unit Owner shall be responsible for the maintenance and repair of all such windows and doors.

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SECTION V OWNERSHIP

5.1 **Type of Ownership.** Ownership of each Unit may be in fee simple or in any other estate in real property recognized subject to this Declaration; provided, however, time share estates may not be in the Condominium Property.

5.2 **Association Membership.** The Unit Owners as shown on the Public Records of St. Lucie County, Florida, shall be members of the Association. There shall be one (1) membership for each Unit and if there is more than one (1) record owner per Unit, then such membership shall be divided among such owners in the same manner as is their ownership in the Unit.

5.3 **Unit Owner's Rights.** A Unit Owner is entitled to the exclusive possession of such Unit Owner's Unit. Each Unit Owner shall be entitled to use the Common Elements in accordance with the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of other Unit Owners. There shall be a joint use of the Common Elements and a joint mutual easement for the purpose is hereby created.

5.4 **Common Elements.** The Unit Owners of each Unit shall own an undivided percentage interest in the Common Elements equal to one (1) divided by the total number of Units submitted to the condominium form of ownership.

5.5 **Separation.** The fee title of each Unit shall include both the Unit and an undivided interest in the Common Elements; said undivided interest in the Common Elements is deemed to be conveyed or encumbered with its Unit, even though the description in the instrument of conveyance may refer only to the fee title to the Unit. The share in the Common Elements appurtenant to a Unit cannot be conveyed or encumbered except together with the Unit. Any attempt to separate and any action to partition the fee title to a Unit from the undivided interest in the Common Elements appurtenant to such Unit shall be null and void.

SECTION VI COMMON EXPENSES AND COMMON SURPLUS

6.1 **Expenses.** The share of the Common Expenses to be borne by each of the Unit Owners shall be the proportionate share of the total expenses and costs of the Association equal to the Unit Owner's percentage interest in the Common Elements as the same may from time to time be established.

6.2 **Surplus.** Any Common Surplus of the Association shall be owned by each of the Unit Owners in the same

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proportion as their percentage interest in the Common Elements as the same may from time to time be established.

**SECTION VII
MAINTENANCE, ALTERATIONS AND IMPROVEMENTS**

7.1 **Association.** The Association shall maintain, repair and replace at the Association's expense all limited common elements and portions of a Unit contributing to the support of the Condominium Property, which portions shall include, but not be limited to, outside walls of the building and all fixtures on its exterior, those portions of boundary walls not a part of Unit; floor and ceiling slabs; load-bearing columns and load-bearing walls; all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services contained in the portion of a Unit maintained by the Association; and all such facilities contained within a Unit that service part or parts of the Condominium Property other than the Unit within which contained.

7.2 **Unit Owner.** The Unit Owner shall keep and maintain the Unit Owner's Unit, its equipment and appurtenances, in good order, condition and repair, and to perform promptly all maintenance and repair work within the Unit which, if omitted, would affect the Condominium Property in its entirety or in a part belonging to others; being expressly responsible for the damages and liability which any failure to do so may engender. Notwithstanding anything contained in this Declaration, each Unit Owner shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all windows and all exterior doors, including sliding glass doors and all air conditioning and heating equipment, including pipes, wiring, ducts, fixtures and their connection required to provide water, access, light, power, air conditioning and heating, telephone, sewage and sanitary service to the Unit (which may now or hereafter be situated in the Unit (all of which if not a part of the Unit shall be deemed to be Limited Common Elements); and the interior surfaces of all walls, ceilings and floors, screening and railings of porches and other facilities appurtenant to the Unit; the plumbing, electrical fixtures and equipment located within a Unit and those exclusively servicing a Unit.

7.3 **Notice.** The Unit Owners shall promptly notify the Association of any defect or need for repairs for which the Association is responsible.

7.4 **Access.** The Association shall have the irrevocable right of access of each Unit during reasonable hours when necessary for the maintenance, repair or replacement to any Common Element or of any portion of a Unit to be maintained by the Association pursuant to the

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Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.

7.5 **Alteration and Improvement.** Except as elsewhere reserved to the Developer, neither a Unit Owner nor the Association shall make any alteration in the portions of a Unit that are to be maintained by the Association, remove any portion of such, make any additions to them, do anything that would jeopardize the safety or soundness of the building or impair any easement, or paint or otherwise decorate or change the appearance of any portion of the exterior of the building and the Condominium Property, without first obtaining approval in writing of a majority of Unit Owners. Any such alteration or improvement shall not interfere with the rights of any Unit Owner without their consent and shall be completed in accordance with all applicable building codes and regulations.

7.6 **Expenses.** The maintenance and operation of the Limited Common Elements and Common Elements, including the repair, maintenance and replacement of landscaping and other improvements and facilities, shall be the responsibility of the Association as a Common Expense.

7.7 **Personal Property.** Any personal property acquired by the Association may be sold or mortgaged or otherwise disposed of by the Association.

SECTION VIII USE RESTRICTIONS

8.1 **Units.** The use of the Units shall be in accordance with the following provisions:

(a) Each unit shall be occupied only for commercial or business purposes and for no other purpose. No residential use shall be permitted.

(b) No Unit may be divided or subdivided into a small Unit nor any portion thereof sold or otherwise transferred without first amending this Declaration to show the changes in the Units to be affected thereby.

(c) Nothing shall be hung, displayed or placed on the exterior walls, doors, windows, balconies or patios of the Unit or the building without the prior written consent of the Board of Directors.

(d) No Unit Owner shall make, allow or cause to be made, any structural addition or alteration of any Unit or the Common Elements without the prior written consent of the Association and shall be completed in accordance with all applicable building codes and regulations.

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8.2 Common Elements and Limited Common Elements. The Common Elements and Limited Common Elements shall be used only for the purpose for which they are intended.

8.3 Nuisances. No nuisances shall be allowed on the Condominium Property nor any use or practice which is the source of annoyance to unit users or which interferes with the peaceful possession and proper commercial use of the Condominium by its users. All parts of the property shall be kept in a clean and sanitary condition and no rubbish, refuse or garbage shall be allowed to accumulate or any fire hazard allowed to exist. No Unit Owner shall permit any use of any Unit or Common Elements which will increase the rate of insurance upon the Condominium Property without accepting financial liability for that increase.

8.4 Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or any part thereof; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. All applicable state and federal laws and regulation regarding hazardous waste or substances shall be strictly complied with. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned. No Unit shall be used in a manner or for a purpose which would require any alteration of the Common Elements in order for such use to be in compliance with any applicable laws or regulations.

8.5 Signs. Each Unit Owner shall post a sign indicating the use of each Unit. The sign and lettering shall be of a size designated by the Developer. No signs shall be displayed from a Unit or a Common Elements, except such signs as shall have advance written approval by the Association. The Association shall have the right to remove from and either place in storage at the owner's expense, or dispose of, any signs placed on the Common Elements without the express prior written approval of the Association.

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

8.7 Proviso. Provided, however, that until the Developer has completed all of the contemplated improvements and closed the sales of all of the Units, neither the Unit

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Owners nor the Association nor the use of the Condominium Property shall interfere with the completion of all contemplated improvements and the sale of all Units, and the Developer may make such use of the unsold Units and Common Elements as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, a construction office, showing of the Condominium Property, and the display of signs.

8.8 Security Deposits. The Association may require that a security deposit of an amount not greater than the rent for one month be made with the Association for each Unit occupied by tenants occupying the Unit under a rental agreement, provided such deposit is uniformly required and enforced with respect to all such tenants.

8.9 Sales and Leases. No Unit may be sold, leased or subleased, and no lease may be assigned without prior written consent of the Association.

SECTION IX DEVELOPER'S UNITS AND PRIVILEGES

9.1 Developer. The Developer, at the time of filing of this Declaration, is the owner of all the real and personal property, individual Units and appurtenances comprising the Condominium Property. Therefore, the Developer, until all of the Units have been constructed, sold and closed, is irrevocably empowered, notwithstanding anything herein to the contrary, to sell Units to any person approved by the Developer. The Developer shall have the right to transact upon the Condominium Property any business necessary to consummate the construction and sale of Units, including, but not limited to, the right to maintain models, have signs, staff employees, maintain offices, signs, fixtures or furnishings or other tangible personal property, and maintain active construction sales and leasing operations. Property belonging to the Developer shall not be considered Common Elements and shall remain the exclusive property of the Developer.

9.2 Expenses. Notwithstanding anything to the contrary contained within this Declaration, the liability of the Developer for the payment of the Common Expenses with respect to each Unit owned by the Developer shall be limited as follows:

(a) The Developer shall be excused from the payment of the share of the Common Expenses, including reserves for

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capital expenditures and deferred maintenance, relating to the Units the Developer is offering for sale, for a period commencing upon the recording of the Declaration of Condominium and ending on the first (1st) day of the fourth (4th) calendar month following the month in which the closing of the purchase and sale of each Developer owned Unit occurs.

9.3 **Amendment.** Notwithstanding anything herein to the contrary, the provisions of this Section IX shall not be subject to any amendment that would be detrimental to the sale or leasing of Units by the Developer or would result in an assessment being levied against the Developer for capital improvements without the consent of the Developer until the Developer has sold all of the Units.

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**SECTION X
EASEMENTS**

10.1 **Utilities, Traffic and Support.** Each of the following easements is a covenant running with the land and not withstanding any of the other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonably interfere with its proper and intended use and purpose, and shall survive the termination of the condominium and the exclusive of any lands from the Condominium Property, to wit:

(a) **Utilities.** Easements as may be required for Utility Service in order to adequately serve the Condominium Property; provided, however, easements through a Unit shall be only according to the plans and specifications for the building or as established as the building is actually constructed, unless approved, in writing, by the Unit Owner.

(b) **Pedestrian and Vehicular Traffic.** Easements for pedestrian traffic over, through and across sidewalks, paths, lanes and walks, as the same may from time to time exist, upon the Common Elements; and for the vehicular traffic over, through and across such portions of the Common Elements as may be from time to time paved and intended for such purposes.

(c) **Support.** Every portion of a Unit contributing to the support of the building or an adjacent Unit shall be burdened with an easement for support for the benefit of all other Units and Common Elements in the building.

10.2 **Easement in Common Elements.** The Common Elements shall be, and the same is hereby declared to be subject to a perpetual nonexclusive easement in favor of all of the Unit Owners for their use and the use of their employees, guests and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same

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are reasonably intended, for the enjoyment of the Unit Owners.

10.3 Right of Entry to Units. The Association, and any person authorized by it, shall have the right, at reasonable times, to enter any Unit if such entry is appropriate to the maintenance, repair and/or operation of the Condominium and its Common Elements. Each Unit Owner shall make such access available to the Association or any person authorized by it. In case of emergency originating in or threatening any Unit, Common Element or person, regardless of whether or not the owner is present at the time of such emergency, the Association, or any other person authorized by it, shall have the right to enter such Unit to remedy or abate the cause of such emergency, and such right of entry shall be immediate, and to facilitate entry in the event of any such emergency, the Unit Owner if required by the Association, shall deposit under the control of the Association, a key or keys and such information as will enable the Association to enter the Unit.

10.4 Right of Entry to Common Elements. The Association and any person authorized by it shall at all times have unrestricted access to the Common Elements of the Condominium outside the confines of a Unit.

10.5 Easements for Encroachments. In the event that any Unit shall encroach upon any of the Common Elements for any reason not caused by the purposeful or negligent act of the Unit Owner or agent of such Unit Owner, then an easement appurtenant to such Unit shall exist for the continuance of such encroachment into the Common Elements for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Elements shall encroach upon any Unit, then an easement shall exist for the continuance of such encroachment of the Common Elements into any Unit for so long as such encroachment shall naturally exist.

10.6 Air Space. An exclusive easement is hereby granted for the use of the air space occupied by a Unit as it exists at any particular time and as the Unit may lawfully be altered.

10.7 Easement for Encroachments for Units. An easement for encroachments by the perimeter walls, ceiling and floor surrounding each Unit is hereby granted.

10.8 Easement for Overhangs. An easement for overhanging troughs or gutters, downspouts and the discharge therefrom of rainwater and the subsequent flow thereof over Units is hereby granted.

10.9 Easement for Air Space of Common Elements. An exclusive easement is hereby granted for the use of the area

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and air space occupied by any Unit Owner installed air conditioning compressor and the equipment and fixtures appurtenant thereof, situated in or on Common Elements but exclusively serving and individually owned by the Unit Owner, as the same exist in and on the land, which exclusive easement shall be terminated automatically in any air space which is permanently vacated by such air conditioning compressor, and the equipment and fixtures appurtenant thereto; provided, however, that the removal of same for repair or replacement shall not be construed to be a permanent vacation of the air space which it occupies.

**SECTION XI
ASSOCIATION**

11.1 Association. In order to provide for the efficient and effective administration of this condominium by the unit Owners a profit corporation known and designated as Tropical Shoppes of Bayshore Condominium Association has been organized under the laws of the State of Florida and said corporation shall administer the operation and management of this condominium, and undertake and perform acts and duties incident thereto in accordance with the terms, provisions and conditions of this Declaration of Condominium, its By-Laws and the Rules and Regulations promulgated by the Association from time to time.

11.2 Articles of Incorporation. A copy of the Articles of Incorporation of the Association is attached hereto as Exhibit "C" and by this Declaration.

11.3 Bylaws. A copy of the Bylaws of the Association is attached hereto as Exhibit "D" and by this reference incorporate herein as a part of this Declaration.

11.4 Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other persons.

11.5 Restraint Upon Assignment of Shares in Assets. The shares of members in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to a Unit.

11.6 Membership. The Developer and the record Unit Owners of all Units shall be members of the Association, and no other persons or entities shall be entitled to membership except for the subscribers to the Articles of Incorporation. Except for the Developer, membership shall be established by

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acquisition of ownership of fee title to, or fee interest in a Unit, whether by conveyance, devise, judicial decree or otherwise, subject to the provisions of this Declaration, by the recordation among the public records of St. Lucie County, Florida, of the deed or other instrument establishing the acquisition and designating the Unit affected thereby and by the delivery to the Association of a true copy of such deed or other instrument. Upon such acquisition, recordation and delivery, the acquirer shall become a member of the Association, and the membership of the prior Unit Owner as to the Unit designated shall be terminated.

11.7 Voting. On all matters as to which the membership shall be entitled to vote, there shall be one (1) vote for each Unit that is submitted to the Condominium, irrespective of whether any phase or phases are not developed and added to the Condominium. The Developer shall be deemed the record owner of and be entitled to one (1) vote for every Unit that is submitted to the Condominium except Units that have been acquired by another person who has established membership in the Association in accordance with section 11.6.

11.8 Records. The Association shall maintain and make available to Unit Owners and to holders, insurers and guarantors of any first mortgage, for inspection, upon written request, during normal business hours or under other reasonable circumstances, current copies of this Declaration, the Bylaws of the Association, rules of the Association, and the books, records and financial statements of the Association.

11.9 Easements; Dedications; Contributions. The Association is authorized and empowered without approval of the members or Unit Owners, to (a) grant, move, alter, amend, waive or release any easement on the Common Elements and (b) dedicate, grant, deed, convey or contribute any part of the Common Elements or Common Property to the public, any government or governmental authority, or any public or private utility or service district. For this purpose, the president or vice-president of the Association may execute any document or instrument evidencing and implementing the aforesaid act and shall be deemed to have a power of attorney for the Association and all Unit Owners for this purpose. The consent of a majority of the directors or a vote of the majority of the directors of the Association may authorize or ratify any such action by the officers of the Association. It is expressly contemplated that this section will enable the Condominium to make expeditious arrangements regarding streets, roads, signs, utilities, storm drainage, lake and lake bank, improvements and management, and similar services and facilities for the Condominium.

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SECTION XII ASSESSMENTS

12.1 Levy. The making and collecting of assessments against Unit Owners for Common Expenses shall be the obligation of the Board of Directors pursuant to the By-Laws and subject to the following provisions:

(a) Share of Common Expenses. Each Unit Owner shall be liable personally for a proportionate share of the Common Expenses and shall be entitled to an undivided share of the common surplus, such shares being equal to the Unit Owner's undivided share of the Common Elements. A Unit Owner, regardless of how title is acquired, including, without limitation, a purchaser at a judicial sale, shall be liable for all assessments coming due while such person is the Unit Owner. In a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for the grantor's share of the common expenses up to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amount paid by the grantee therefore.

(b) Non-Waiver. The liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or by abandonment of the Unit for which the assessment is made.

(c) Interest, Application of Payments. Assessments and installments paid on or before five (5) days after the date when due shall not bear interest, but all sums not paid on or before five (5) days after the date when due shall bear interest at the highest rate allowed by the laws of the State of Florida from the date when due, until paid. All payment upon account shall be first applied to interest and then to the assessment payment first due.

12.2 Lien for Assessments. The Association shall have a lien on each Unit for any unpaid assessments with interest thereon and reasonable attorney's fees incurred by the Association incident to the collection of such assessments or the enforcement of such lien. Said lien shall be effective from and after the time of recording in the public records of St. Lucie County, Florida, of a claim of lien stating the description of the unit, the name of the Unit Owner, the amount due and the due dates. At the time of filing a lien for assessments the Association may accelerate the time for payment of assessments for a period of not greater than one year from the date the lien is recorded. The lien shall continue in effect until all sums secured by the lien have been fully paid, but not longer than one (1) year after the claim of lien has been recorded, unless within that time an action to enforce the lien is commenced

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in a court of competent jurisdiction. Such claims of lien shall be signed and acknowledged by an officer or agent of the Association. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of lien. All such liens shall be subordinate to the lien of an institutional mortgage recorded prior to the time of recording of the claim of lien.

12.3 Collection and Foreclosure. The Board of Directors may take such actions as it deems necessary to collect assessments of the Association by personal action or by enforcing and foreclosing said lien, and may settle and compromise same, if in the best interests of the Association. Said lien shall be effective as in the manner provided for by the Condominium Act, and shall have the priorities established by said Act. The Association shall be entitled to bid at any sale held pursuant to a suit to foreclose an assessment lien, and to apply as a cash credit against its bid, all sums due the Association covered by the lien enforced.

12.4 Unpaid Assessments - Certificate. Any Unit Owner shall have the right to require from the Association a certificate showing the amount of unpaid assessments with respect to the Unit. The holder of a mortgage or other lien shall have the same right as to the Unit subject to such mortgage or liens. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby. Upon written request to the Association, identifying the name and address of the holder, and the Unit number or address, any holder, insurer, or guarantor shall be entitled to timely written notice of any delinquency of more than sixty (60) days in the payment of assessments or charges owed by the Unit covered by the mortgage.

12.5 Working Capital. Each initial Unit Owner shall upon acquisition of the Unit from the Developer contribute to the Association an amount equal to twice the current monthly assessment. Such amount shall be held by the Association as special reserve account for the purpose of defraying unforeseen expenditures and capital outlays. This contribution shall not constitute a prepayment of the regular monthly assessments or be used to fund routine budgeted expenses for normal operations.

12.6 Use Fees. The Association shall have the power and authority to charge Unit Owners a use fee for the exclusive use of Common Elements or Association property, provided such fees are equitably apportioned and reasonably related to the expenses incurred in such exclusive use of Common Elements or Association Property by a Unit Owner.

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SECTION XIII COMPLIANCE AND DEFAULT

13.1 **Compliance.** Each Unit Owner shall be governed by and shall comply with the terms of the Declaration, Bylaws and Rules and Regulations adopted pursuant thereto, and said documents and rules and regulations as they may be amended from time to time. Failure of Unit Owners to comply therewith shall entitle the Association or other Unit Owners to the following relief in addition to the remedies provided by the Condominium Act.

13.2 **Negligence.** A Unit Owner shall be liable for the expenses of any maintenance, repair or replacement rendered necessary by the act, neglect or carelessness or by that of any member of the family or guests, invitees, employees or lessees, of such Unit Owner but only to the extent that such expense is not met by the proceeds of insurance carried by the Association.

13.3 **Costs and Attorneys' Fees.** In any proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of the Declaration, the Bylaws and the Rules and Regulations adopted pursuant thereto, and said documents and rules and regulations as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the court.

13.4 **No Waiver of Rights.** The failure of the Association or any Unit Owner to enforce a covenant, restriction or other provision of the Condominium Act, this Declaration, the Bylaws, the Rules and Regulations or any of the exhibits attached hereto, as they may be amended from time to time, shall not constitute a waiver of the right to do so thereafter.

13.5 **Fines.** The Association may levy reasonable fines against an Owner for failure of the Unit Owner, or any occupant, licensee or invitee, to comply with any provision of the Declaration, the Bylaws, or reasonable rules of the Association. Any unpaid fine shall become a lien against a Unit that may be foreclosed in the manner specified for unpaid assessments. No fine may exceed Two Hundred and Fifty Dollars (\$250.00) per day, nor may any fine be levied except after giving reasonable notice and opportunity for a hearing to the Unit Owner, occupant, licensee or invitee.

SECTION XIV INSURANCE

14.1 **Authority to Purchase.** All insurance policies upon the Condominium Property shall be purchased by the

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COPY

Association for the benefit of the Association and the Unit Owners and their mortgagees, as their interest may appear, and provisions shall be made for the issuance of certificates or mortgagee endorsements to the mortgagees of Unit Owners. Such policies and endorsements shall be deposited with the Insurance Trustee. Unit Owners may obtain insurance coverage at their own expense upon their personal property and for their personal liability and living expense. All policies purchased by the Association must be written by insurance companies authorized to do business in the State of Florida.

14.2 **Coverage.** The Association shall secure insurance to provide the following coverages and such other coverages as the Board deems appropriate, to wit:

(a) **Casualty.** All buildings and improvements upon the land, including Units and all personal property of the Association included in the Condominium Property, excluding floor, wall and ceiling coverings within the Units, are to be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, and subject to such reasonable deductible amounts, as are determined annually by the Board of Directors of the Association, and all such insurance must be obtained, if possible, from the same company. Such coverage shall provide 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, including, but not limited to, vandalism and malicious mischief and other hazards covered by the standard "All Risks" contract.

(b) **Public Liability.** In such amounts and with such coverage as shall be required by the Board of Directors of the Association with cross liability endorsements to cover liability of the Unit Owners as a group to a Unit Owner, but in no event shall the amount of such insurance coverage be less than One Million Dollars (\$1,000,000.00) for bodily injury and property damage on a per occurrence basis.

(c) **Workmen's Compensation.** As shall be required to meet the requirements of law.

(d) **Title Insurance.** The Association shall secure title insurance for any real property owned by the Association.

(e) **Association Insurance.** Such other insurance as may be required by the Federal National Mortgage Association Lending Guide and as the Board of Directors of the Association, in its discretion, may determine from time to

COPY

time to be in the best interest of the Association and the unit owners.

14.3 **Premiums.** Premiums for insurance policies purchased by the Association shall be paid by the Association. Specially rated risk premiums specifically related to the uses conducted in an individual unit or units, shall be paid by the Unit Owner.

14.4 **Assured.** All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interest may appear and shall provide that all proceeds covering casualty losses shall be paid to any bank in St. Lucie County, Florida with trust powers, as may be approved and designated insurance trustee by the Board of Directors of the Association, which trustee is herein referred to as the "Insurance Trustee." All insurance policies shall require written notification to each institutional mortgagee of any lapse and not less than ten (10) days in advance of any cancellation or material modification of any insurance policy insuring the Condominium Property. The Insurance Trustee shall not be liable for payments of premiums, nor for the renewal or sufficiency of the policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid, and hold same in trust for the purposes elsewhere stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares, but which shares need not be set forth in the records of the Insurance Trustee.

14.5 **Common Elements.** Proceeds on account of Common Elements shall be held in as many undivided shares as there are Units.

14.6 **Units.** Proceeds on account of Units shall be held in the following undivided shares:

(a) **Partial Destruction.** When the building is to be restored, for the Unit Owners of damaged Units in proportion to the cost of repairing the damage suffered by each Unit Owner.

(b) **Total Destruction.** When the building is to be restored, for the Unit Owners of all Units in the building in proportion to their share of the common elements appurtenant to their Unit.

(c) **Mortgagee.** In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests appear. In no event shall any mortgagee have the right to demand the application of insurance

COPY

proceeds to any mortgage or mortgages which it may hold against Units, except to such extent as said insurance proceeds may exceed the actual cost of repair or to the extent as said insurance proceeds may exceed the actual cost of repair or restoration of the damaged building or buildings, and no mortgagee shall have any right to participate in the determination as to whether or not improvements will be restored after casualty. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Unit number or address, any mortgage holder or guarantor will be entitled to timely written notice of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

14.7 Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

(a) **Expense of the Trust.** All expenses of the Insurance Trustee shall be first paid or provisions made therefor.

(b) **Reconstruction or Repair.** Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

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

(d) **Certificate.** In making distribution to Unit Owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association made by the President, or a Vice President, and the Secretary, or an Assistant Secretary, as to the names of the Unit Owners and their respective shares of the distribution.

(e) **Association as Agent.** The Association is hereby irrevocably appointed agent for each Unit Owner to adjust all claims arising under insurance policies purchased by the Association.

COPY

SECTION XV RECONSTRUCTION OR REPAIR AFTER CASUALTY

15.1 Determination to Reconstruct or Repair. If any part of the Condominium Property shall be damaged by casualty, whether or not it shall be constructed or repaired shall be determined in the following manner:

(a) **Common Elements.** If the damaged improvement is a Common Element, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the condominium form of ownership shall be terminated.

(b) **Building.** If the damaged improvement is a part of a building in which more than fifty percent (50%) of the Units are found by the Board of Directors of the Association to be tenantable, the damaged property shall be reconstructed or repaired, unless within sixty (60) days after the casualty it is determined in the manner elsewhere provided that the condominium form of ownership shall be terminated. If the damaged improvement is a part of a building in which more than fifty percent (50%) of the Units are found by the Board of Directors of the Association to be not tenantable, then the damaged property will not be reconstructed or repaired and the condominium form of ownership will be terminated as elsewhere provided, unless within sixty (60) days after the casualty the Unit Owners of seventy-five percent (75%) of the Units in the building agree in writing to such reconstruction or repair.

15.2 Certificates. The Insurance Trustee may rely upon a certificate of the Association made by the President and Secretary to determine whether or not the damaged property is to be reconstructed or repaired.

15.3 Plans and Specifications. Any construction or repair must be substantially in accordance with the plans and specifications for the original building, portions of which are attached hereto as exhibits, or if not, then according to plans and specifications approved by the Board of Directors, of the Association, and if the damaged property is the condominium building, by the Unit Owners of not less than seventy-five percent (75%) of the Units in the building, which approval shall not be unreasonably withheld.

15.4 Responsibility. If the damage is only to those parts of one (1) unit for which the responsibility of maintenance and repair is that of the Unit Owner, then the Unit Owner shall be responsible for reconstruction and repair after casualty. In all other instances, the responsibility of construction or repair after casualty shall be that of the Association.

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15.5 Estimates of Costs. Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to repair or rebuild.

15.6 Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair to be made by the Association, assessments shall be made against Unit Owners in sufficient amounts to provide funds to pay the estimated costs. Such assessments against the Unit Owners shall be in proportion to the Unit Owner's share in the Common Elements.

15.7 Deductible Provision. The funds necessary to cover any deductible amount under an insurance policy against which a claim is made shall be a Common Expense.

15.8 Construction Funds. The funds for payment of costs of reconstruction and repair after casualty shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from assessments against unit owners, shall be disbursed in payment of such costs in the following manner:

(a) Association. If costs of reconstruction and repair which are the responsibility of the Association are more than Five Thousand Dollars (\$5,000.00), the sums paid upon assessments to meet such costs shall be deposited by the Association with the Insurance Trustee. In all other cases, the Association shall hold the sums paid upon such assessments and disburse the same in payment of the costs of reconstruction and repair.

(b) Insurance Trustee. The proceeds of insurance collected on account of a casualty, and the sums deposited with the Insurance Trustee by the Association from the collections of assessments against unit owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

(1) Unit Owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with the Unit Owner, shall be paid by the Insurance Trustee to the Unit Owner, or if there is a mortgagee endorsement, then to the Unit Owner and the mortgagee jointly.

(2) Association - Lesser Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than Five Thousand Dollars (\$5,000.00), then the construction fund shall be

COPY

disbursed in payment of such costs upon the order of the Association; however, that upon request to the Insurance Trustee by a mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.

(3) Association - Major Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than Five Thousand Dollars (\$5,000.00), then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association and upon approval of an architect qualified to practice in the State of Florida and employed by the Association to supervise the work.

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

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

COPY

upon disbursements in payment of costs of reconstruction and repair.

15.10 **Mortgages.** Upon written request to the Association, identifying the name and address of the holder, and the unit number or address, any holder, insurer, or guarantor shall be entitled to timely written notice of any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit covered by the mortgagee.

**SECTION XVI
AMENDMENT OF DECLARATION**

16.1 **Procedure.** Except as elsewhere provided otherwise, this Declaration may be amended in the following manner:

(a) **Notice.** Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

(b) **Resolution of Adoption.** A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by:

(1) Not less than seventy-five percent (75%) of the votes of the entire membership of the Board of Directors and by not less than seventy-five percent (75%) of the votes of the entire membership of the Association; or

(2) Not less than eighty percent (80%) of the votes of the entire membership of the Association.

16.2 **Resolution of Adoption for Errors.** A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by Members of the Association whenever it appears that there is an omission or error in this Declaration of Condominium, or any exhibit attached hereto, or amendment hereto, as follows:

(a) Not less than fifty percent (50%) of the votes of the Members of the Board of Directors and by not less than fifty percent (50%) of the votes of the entire membership of the Association.

(b) Any amendment adopted pursuant to the provisions of this Section 16.2 shall not materially and adversely affect the property rights of Unit Owners.

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16.3 Proviso. No amendment shall discriminate against any Unit Owner or against any Unit, or class or group of Units, or materially affect the rights or interest of an Institutional Mortgagee's security position or alter an Institutional Mortgagee's rights without the prior express written consent of the Unit Owners so affected and their Institutional Mortgagees and no amendment shall change any Unit or the share in the Common Elements, and other of its appurtenances or increase the Unit Owner's share of the Common Elements, except as herein provided, unless the Unit Owner concerned and all such mortgagees as first above recited, shall join in the execution of the amendment.

16.4 Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the officers of the Association with the formalities of a deed. The amendment shall be effective when such certificate and a copy of the amendment are recorded in the public records of St. Lucie County, Florida.

16.5 Amendments. The section covering termination cannot be amended without consent of all unit owners. Upon written request to the Association, identifying the name and address of the holder, and the unit number or address, any holder, insurer, or guarantor shall be entitled to timely written notice of any proposed amendment.

16.6 Developer Amendments. Anything in Section XIV to the contrary notwithstanding, for so long as the Developer shall be selling units in the ordinary course of business, the Developer shall have the right to amend this Declaration in order to conform to the provisions of the Condominium Act, without prior notice to or action by the Unit Owners in such manner as shall not materially adversely affect the property rights of the Unit Owners.

COPY

**SECTION XVII
SEVERABILITY AND INVALIDITY**

17.1 Invalidity. The invalidity in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or word, or other provisions of this Declaration of Condominium and the Articles of Incorporation, the By-laws and the Rules and Regulations of the Association, shall not affect the validity of the remaining portions which shall remain in full force and effect.

17.2 Perpetuities. In the event any court shall hereafter determine that any provisions of this Declaration of Condominiums, as originally drafted, or as amended, violates the rule against perpetuities or any other rules of

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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 rules of law, and for such purpose measuring lives shall be those of the youngest lineal descendants of the incorporators of the Association living on the effect date of this Declaration.

SECTION XVIII
INTERPRETATION

18.1 Construction. The provisions of this Declaration of Condominium shall be liberally construed to effectuate its purposes of creating a uniform plan for the operation of a condominium in accordance with the Florida Condominium Act.

Dated: September 4, 1996.

Witness:
Nancy Cavell
Karen Denton

FORTUNE PROPERTIES OF ST.
LUCIE COUNTY
By: Ellen Guterl
ELLEN GUTERL, PRESIDENT

STATE OF FLORIDA
COUNTY OF ST. LUCIE

The foregoing instrument was acknowledged before me this 4 day of September, 1996, by ELLEN GUTERL, [] who is personally known to me or [] who has produced his driver's license as identification, and who acknowledged before me that he is the President of FORTUNE PROPERTIES OF ST. LUCIE COUNTY, a Florida corporation, and he acknowledged that he executed the foregoing instrument on behalf of the corporation and individually, and who did not take an oath.

Nancy Cavell
Type Name
Notary Public
STATE OF FLORIDA AT LARGE
My commission expires: _____

(NOTARY SEAL)



COPY

EXHIBIT "A"

Lots 20, 21, 22, 23, & 24, Block 75, PORT ST. LUCIE SECTION 28, according to the Plat thereof, recorded in Plat Book 14, Page 7, 7A - 7C of the Public Records of St. Lucie County, Florida, situate in St. Lucie County Florida.

COPY

COPY

EXHIBIT "A"

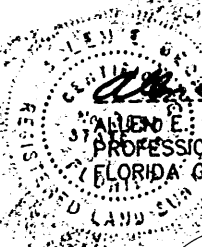
COPY

TROPICAL SHOPPES
OF BAYSHORE
A CONDOMINIUM
SURVEYORS CERTIFICATE

OR BOOK 1034 PAGE 0876

COPY

I HEREBY CERTIFY THAT THE CONSTRUCTION OF THE IMPROVEMENTS SHOWN
HEREIN ARE SUBSTANTIALLY COMPLETE SO THAT THIS MATERIAL TOGETHER
WITH THE PROVISIONS OF THE DECLARATION DESCRIBING THE CONDOMINIUM
PROPERTY, IS AN ACCURATE REPRESENTATION OF THE LOCATION AND
DIMENSIONS OF THE IMPROVEMENTS AND SO THAT THE IDENTIFICATION,
LOCATION AND DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT CAN
BE DETERMINED FROM THESE MATERIAL.



Allen E. Beck 6-20-96
ALLEN E. BECK
PROFESSIONAL LAND SURVEYOR
FLORIDA CERTIFICATE NO. 3690

COPY

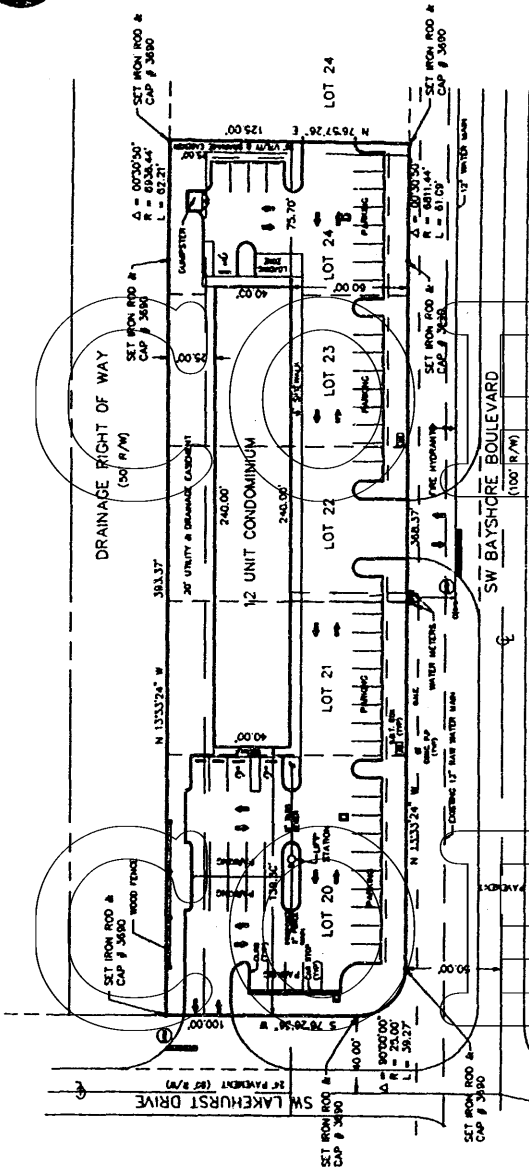
ALLEN E. BECK	
PROFESSIONAL LAND SURVEYORS	
608 S.W. BAYSHORE BLVD.	
PORT ST. LUCIE, FLORIDA 34983	
(407) 340-1432	
SCALE _____	JOB NO. 96-2816
SHEET 1	OF 4

EXHIBIT "B"

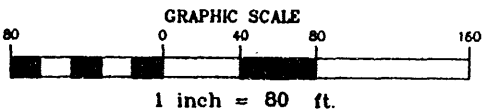
COPY

TROPICAL SHOPPES
OF BAYSHORE
A CONDOMINIUM
SURVEY / SITEPLAN

OR BOOK 1034 PAGE 0877



LEGAL DESCRIPTION
LOTS 20, 21, 22, 23, & 24, BLOCK 75, PORT ST. LUCIE SECTION 28,
ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 14, PAGE 7, 7A - 7C
OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA.



ALLEN E. BECK
PROFESSIONAL LAND SURVEYORS
608 S.W. BAYSHORE BLVD.
PORT ST. LUCIE, FLORIDA 34983
(407) 340-1432

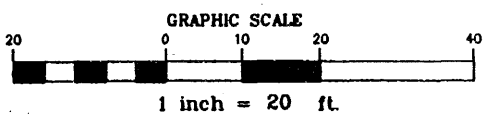
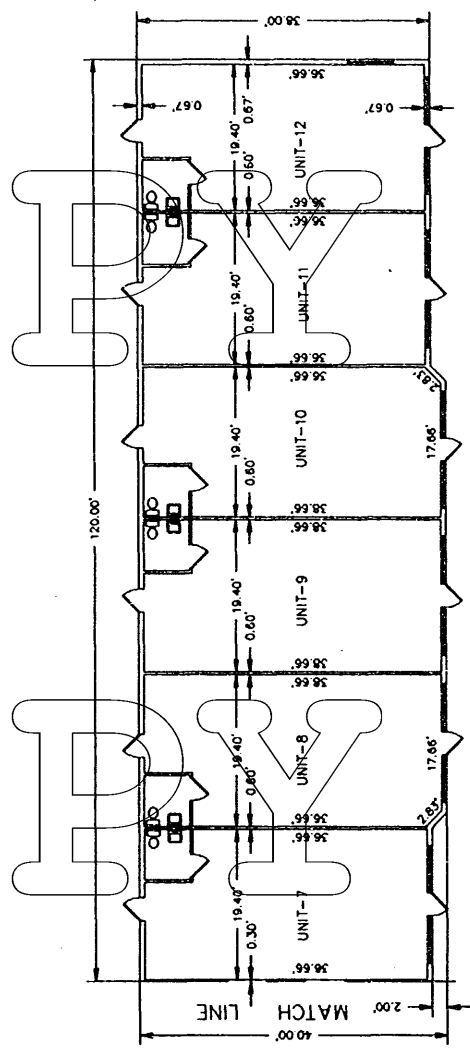
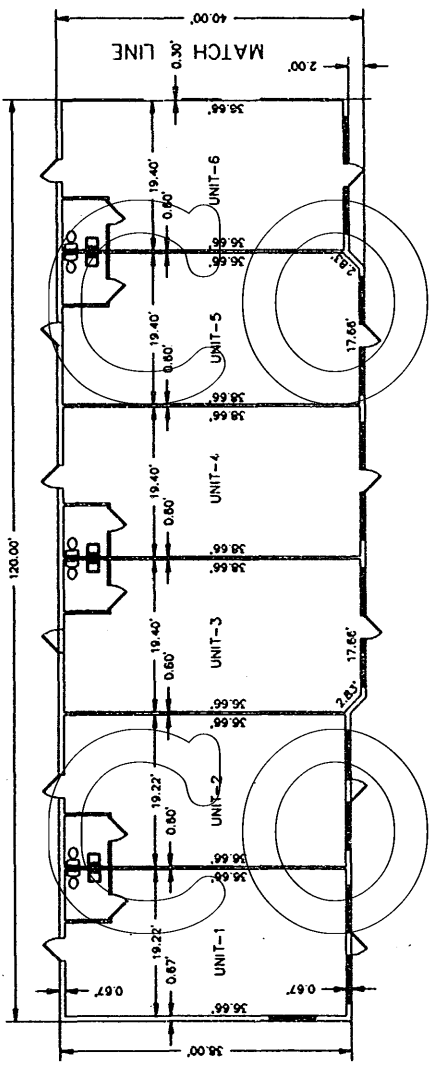
SCALE 1" = 80' JOB NO. 96-2816
SHEET 2 OF 4

COPY



TROPICAL SHOPPES
OF BAYSHORE
A CONDOMINIUM
HORIZONTAL BOUNDARIES
TYPICAL UNIT PLAN

OR BOOK 1034 PAGE 0878



ALLEN E. BECK
 PROFESSIONAL LAND SURVEYORS
 608 S.W. BAYSHORE BLVD.
 PORT ST. LUCIE, FLORIDA 34983
 (407) 340-1432

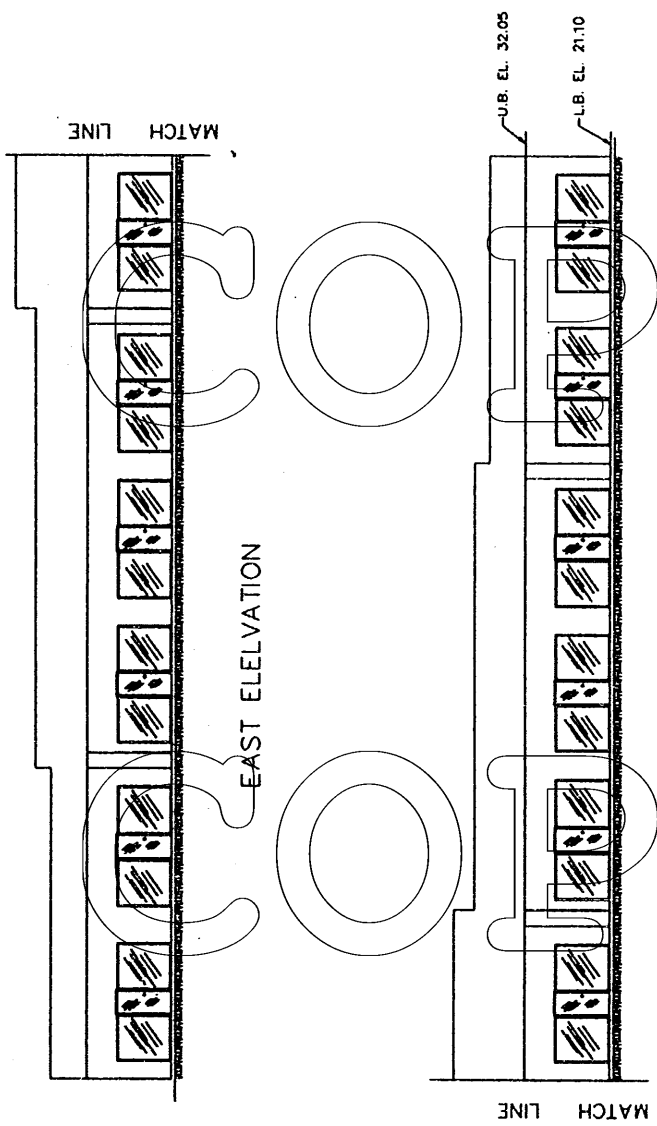
SCALE 1" = 20' JOB NO. 96-2816
 SHEET 3 OF 4

COPY



TROPICAL SHOPPES
OF BAYSHORE
A CONDOMINIUM
VERTICAL BOUNDARIES
TYPICAL PLAN

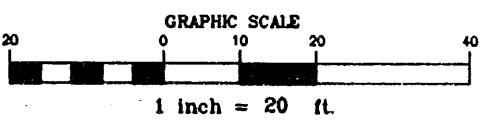
OR BOOK 1034 PAGE 0879



COPY

EAST ELEVATION

NOTE:
 L.B. LOWER BOUNDARY
 U.B. UPPER BOUNDARY
 EL. ELEVATION (NAVD '88)



ALLEN E. BECK
 PROFESSIONAL LAND SURVEYORS
 608 S.W. BAYSHORE BLVD.
 PORT ST. LUCIE, FLORIDA 34983
 (407) 340-1432
 SCALE 1" = 20' JOB NO. 96-2816
 SHEET 4 OF 4

COPY



FLORIDA DEPARTMENT OF STATE
Sandra B. Mortham
Secretary of State

May 21, 1996

CSC NETWORKS
1201 HAYS STREET
TALLAHASSEE, FL 32301

OR BOOK 1034 PAGE 0880

COPY

The Articles of Incorporation for TROPICAL SHOPPES OF BAYSHORE CONDOMINIUM ASSOCIATION, INC. were filed on May 10, 1996 and assigned document number N9600002705. Please refer to this number whenever corresponding with this office regarding the above corporation. The certification you requested is enclosed.

PLEASE NOTE: COMPLIANCE WITH THE FOLLOWING PROCEDURES IS ESSENTIAL TO MAINTAINING YOUR CORPORATE STATUS. FAILURE TO DO SO MAY RESULT IN DISSOLUTION OF YOUR CORPORATION.

A CORPORATION ANNUAL REPORT MUST BE FILED WITH THIS OFFICE BETWEEN JANUARY 1 AND MAY 1 OF EACH YEAR BEGINNING WITH THE CALENDAR YEAR FOLLOWING THE YEAR OF THE FILING DATE NOTED ABOVE AND EACH YEAR THEREAFTER. FAILURE TO FILE THE ANNUAL REPORT ON TIME MAY RESULT IN ADMINISTRATIVE DISSOLUTION OF YOUR CORPORATION.

A FEDERAL EMPLOYER IDENTIFICATION (FEI) NUMBER MUST BE SHOWN ON THE ANNUAL REPORT FORM PRIOR TO ITS FILING WITH THIS OFFICE. CONTACT THE INTERNAL REVENUE SERVICE TO RECEIVE THE FEI NUMBER IN TIME TO FILE THE ANNUAL REPORT AT 1-800-829-3676 AND REQUEST FORM SS-4.

SHOULD YOUR CORPORATE MAILING ADDRESS CHANGE, YOU MUST NOTIFY THIS OFFICE IN WRITING, TO INSURE IMPORTANT MAILINGS SUCH AS THE ANNUAL REPORT NOTICES REACH YOU.

Should you have any questions regarding corporations, please contact this office at the address given below.

Claretha Golden, Document Specialist
New Filings Section

Letter Number: 896A00025252

Account number: 072100000032

Account charged: 122.50

COPY

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of TROPICAL SHOPPES OF BAYSHORE CONDOMINIUM ASSOCIATION, INC., a Florida corporation, filed on May 10, 1996, as shown by the records of this office.

COPY

The document number of this corporation is N96000002705.

COPY

CR BOOK 1034 PAGE 0881

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Twenty-first day of May, 1996



CR2E022 (1-95)

Sandra B. Mortham

Sandra B. Mortham
Secretary of State

COPY

ARTICLES OF INCORPORATION

FOR

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS

95 MAY 10 PM 3:42

TROPICAL SHOPPES OF BAYSHORE CONDOMINIUM ASSOCIATION, INC.

The undersigned incorporator associate themselves for the purpose of forming a corporation for not for profit pursuant to the laws of the State of Florida, and adopt the following Articles of Incorporation:

**ARTICLE I
NAME AND ADDRESS**

1.01 The name of this corporation is Tropical Shoppes of Bayshore Condominium Association, Inc. The principal office and the mailing address of the corporation is 612 S.W. Port St. Lucie Blvd., Port St. Lucie, Florida 34953.

**ARTICLE II
TERM**

2.01 The term of this corporation shall commence as of the date of the filing of these Articles with the Secretary of State of Florida.

2.02 This corporation shall have perpetual existence.

**ARTICLE III
PURPOSE**

3.01 This corporation is organized for the purpose of providing an entity under the Florida Condominium Act (the "Act") for the operation of a condominium located in St. Lucie County, Florida, and known as Tropical Shoppes of Bayshore Condominium.

**ARTICLE IV
DEFINITION**

4.01 Association means Tropical Shoppes of Bayshore Condominium Association, Inc.

4.02 Bylaws means the Bylaws of the Association.

4.03 Condominium means Tropical Shoppes of Bayshore Condominium according to the Declaration thereof recorded in the Public Records of St. Lucie County, Florida.

4.04 Declaration means the Declaration of Condominium for Tropical Shoppes of Bayshore Condominium as recorded in the Official Records of St. Lucie County, Florida.

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4.05 Declaration of Covenants means those covenants described in of the Declaration, and all amendments.

4.06 Developer means the developer of the Condominium described in the Declaration and the Developer's successors and assigns.

ARTICLE V
POWERS

5.01 The Association shall have all of the powers of a corporation for profit which are not in conflict with the provisions of these Articles or prohibited by the Act or other law. Such powers shall include, but not be limited to, the following:

(a) To fix, establish, levy and collect assessments against members as owners of the Condominium property for the purpose of exercising its powers and carrying out its responsibilities. Assessments shall be used by the Association only for common expenses as such expenses are defined in the Act.

(b) To buy, sell, trade, lease, improve and encumber property, real or personal.

(c) To maintain, repair, replace, reconstruct after casualty, operate and manage the Condominium property and any property owned or leased by the Association.

(d) To acquire and pay for insurance on the Condominium property and for the protection of the Association and its members.

(e) To make and amend reasonable rules and regulations for the use and appearance of Condominium property and common elements in the Condominium for the benefit, health, safety, welfare, and happiness of the members of the Association.

(f) To enforce through legal means the Declaration, the Protective Covenants, the Bylaws, these Articles and any rule or regulation as contemplated by these Articles.

(g) To hire agents and employees to discharge the responsibilities of the Association to maintain the common elements of the Condominium.

5.02 The Association shall, in exercising these and all other powers, be subject to and act in accordance with the Act, the Declaration, these Articles and the

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Bylaws. The Association shall distribute no part of its income to its members, directors, or officers, and if the Association is dissolved, all its assets shall be transferred only to nonprofit corporation or public agency. All funds and all titles to any properties acquired by the Association, and any proceeds therefrom, shall be held in trust for the benefit of its members.

ARTICLE VI
STOCK AND DISTRIBUTIONS

6.01 The Association shall not issue any shares of stock.

6.02 The Association shall not pay any dividends or distribute any part of the income of the Association, if any, to its members, directors or officers. All monies and title to all properties acquired by the Association and the proceeds thereof shall be held only for the benefit of the members in accordance with the provisions of the Declaration, these Articles and Bylaws.

6.03 Nothing herein, however, shall be construed to prohibit the Association from conferring benefits upon its members in conformity with its purposes or from making any payments or distributions to members of monies or properties upon dissolution or final liquidation as permitted by the Florida Condominium Act.

6.04 The Association may reimburse its directors, officers and members for expenses authorized and approved by the Board of Directors and incurred for or on behalf of the Association.

6.05 The Association may pay reasonable compensation to its directors, officers and members for actual services rendered to the Association, as authorized and approved by the Board of Directors.

ARTICLE VII
VOTING RIGHTS

7.01 The owners of the Condominium Units shall be the Members of the Association. Membership shall be appurtenant to and may not be separated from the ownership of a Condominium Unit.

7.02 The Developer shall be a member of the Association until all Condominium Units that may be added ultimately to the Condominium have been added and sold.

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ARTICLE VIII
VOTING RIGHTS

8.01 The owner or owners of each Condominium Unit shall be entitled to one (1) vote which is appurtenant to ownership of the Condominium Unit. In the event that two or more Members are the record owners of a fee simple title to a Condominium Unit, then the member who shall be entitled to cast the votes for the Condominium Unit shall be determined as provided in the Bylaws.

8.02 The Developer and its successors and assigns shall be entitled to one (1) vote for every Condominium Unit that is added to the Condominium, less one (1) vote for each such Condominium Unit transferred to another person that has become a member of the Association.

ARTICLES IX
BOARD OF DIRECTORS

9.01 The names and addresses of the initial Directors are as follows:

Jean Guterl	612 S.W. Port St. Lucie Blvd. Port St. Lucie, Florida 34953
Ellen Guterl	612 S.W. Port St. Lucie Blvd. Port St. Lucie, Florida 34953
Dan D'Loughy	612 S.W. Port St. Lucie Blvd. Port St. Lucie, Florida 34953

9.02 The number of Directors may be either increased or decreased from time to time by the Bylaws, but shall never be less than three (3).

9.03 At the first annual meeting and at each annual meeting thereafter, the members shall elect directors for terms as set forth in the Bylaws. Directors need not be members of the Association.

ARTICLE X
OFFICERS

10.01 The Board of Directors shall elect the officers of the Association.

10.02 The Officers need not be members of the Association.

10.03 The officers of the Association shall be the President, a Vice President, a Secretary, a Treasurer, and such other officers and assistant officers as may be decided

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upon and elected by the Board. The same person may hold two or more offices.

10.04 The term of each officer shall be one (1) year or until their successors are elected or appointed as provided in the Bylaws.

10.05 The initial officers of the Association who are to serve until their successors are elected or appointed as provided in the Bylaws are as follows:

President	Jean Guterl
Vice President	Ellen Guterl
Secretary	Ellen Guterl
Treasurer	Jean Guterl

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ARTICLE XI
INCORPORATOR

11.01 The names and addresses of the incorporator of these Articles of Incorporation are:

Jean Guterl	612 S.W. Port St. Lucie Blvd. Port St. Lucie, Florida 34953
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ARTICLE XII
BYLAWS

12.01 The original Bylaws of the Association shall be adopted by the incorporator. Thereafter, the Bylaws may be altered, amended or rescinded by resolution of the Board of Directors only in the manner provided for in the Act and the Bylaws.

ARTICLES XIII
INDEMNIFICATION OF OFFICERS AND DIRECTORS

13.01 Every director and every officer of the Association shall be defended, held harmless and indemnified by the Association against all expenses and liability, including attorney's fees, payable when due, reasonably incurred by or imposed upon Directors and Officers in connection with any proceeding to which such Director or Officer may be a party, by reason of being or having been a Director or an Officer of the Association, whether or not such person is a Director or an Officer at the time such expenses are incurred, except in cases wherein the Director or Officer is adjudged guilty of willful misfeasance, or malfeasance in the performance of duties; provided, that in

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the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the Director or Officer seeking such reimbursement or indemnification, the indemnification herein shall apply only if the Board of Directors approves such settlement and reimbursement as being in the interests of the Association.

13.02 The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled.

**ARTICLE XIV
DIRECTORS AND OFFICERS TRANSACTIONS**

14.01 In the absence of fraud, no contract or other transaction between the Association and any other person, firm, association, corporation, partnership or other legal entity shall be affected or invalidated by the fact that any Director or Officer of the Association is pecuniarily or otherwise interested in, or is a director, member or officer of any such other firm, association, corporation, partnership or other legal entity, or is a party or is pecuniarily or otherwise interested in such contract or other transaction, or in any way connected with any person, firm, association, corporation, partnership or other legal entity pecuniarily or otherwise interested therein.

14.02. Any Director may vote and be counted in determining the existence of a quorum at any meeting of the Board of Directors of the Association for the purpose of authorizing such contract or transaction with like force and effect as if such Director were not so interested or were not a director, member or officer of such firm, association, corporation, partnership or other legal entity.

**ARTICLE XV
DISSOLUTION**

15.01 The Association may be dissolved in the following manner:

(a) A resolution to that effect has been adopted by not less than three-fourths of the members of the Board of Directors at a meeting called at least in part for that purpose upon lawful notice, or by execution of a written instrument; and

(b) A resolution to that effect has been adopted by all of the members at a meeting called at least in part for that purpose upon lawful notice, or by the execution of a written instrument; and

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(c) An appropriate decree has been filed as set forth in Section 617.05, Florida Statutes, or a statute of similar import.

ARTICLE XVI
DISPOSITION OF ASSETS UPON DISSOLUTION

16.01 Upon dissolution of the Association, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner:

(a) Real property contributed to the Association, without the receipt of other than nominal consideration, exclusive of streets and roads providing access, drainage and utility easements to adjacent lands and property dedicated to any governmental agency or utility, shall be owned by the members in the same proportions as their ownership of the common elements of the Condominium.

(b) Property determined by the Board of Directors to be appropriate for dedication to an applicable governmental agency or utility shall be dedicated to such agency or utility. In the event that acceptance of such dedication is refused, such property shall be granted, conveyed and assigned to a non-profit corporation, association, trust or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association.

(c) Any remaining assets shall be distributed among the members subject to the limitations set forth below, as tenants in common, in the same proportions as their ownership of the common elements of the Condominium.

(d) No disposition of Association property shall be effective to divest or diminish any right or title vested in any member by a deed or other recorded instrument applicable to the Condominium Unit owned by such member unless made in accordance with provisions of such deed or instrument.

(e) Anything herein to the contrary notwithstanding, the Association shall have the power to invest the amount of any assessments collected for the purpose of defraying the costs of deferred maintenance and capital expenditures necessary and appropriate to the purposes of the Association. In the event of dissolution, such amounts as have been set aside as reserves for deferred maintenance and capital expenditures that are no longer required for such purposes, and the net earnings derived from the investment of such amounts shall be contributed to a charitable organization designated by the Board of Directors; or if such designation is not made by the Board

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of Directors within a reasonable time, then such designation may be made by the Chief Judge of the Circuit Court of Florida wherein the Registered Office of the Association is located.

**ARTICLE XVII
AMENDMENT**

17.01 These Articles of Incorporation may be amended from time to time by resolution adopted by a majority of the Board of Directors or as provided in the Bylaws, subject to the following restrictions:

(a) Each amendment must be approved by the Members holding not less than two-thirds of the voting rights.

(b) No amendment to these Articles shall be effective which impairs or dilutes any right or title vested in a Member under a deed or other recorded instrument applicable to any part of the Condominium Unit owned by such Member unless made in accordance with provisions of such deed or instrument.

**ARTICLE XIII
GENDER AND NUMBER**

18.01 Wherever herein used, one gender shall include all genders, and the singular shall include the plural and visa versa, as the context requires.

**ARTICLE XIX
REGISTERED AGENT AND REGISTERED OFFICE**

19.01 The Registered Agent for the Association shall be Stephen Navaretta, Esquire.

19.02 The Registered Office of the Association shall be located at 1100 S.W. St. Lucie West Blvd., Suite 203, Port St. Lucie, Florida 34986, or such other person or such other place as the Board of Directors shall from time to time direct, with appropriate notice being given to the Secretary of State of Florida in accordance with law.

19.03 The mailing address for the Association shall be 612 S.W. Port St. Lucie Blvd., Port St. Lucie, Florida 34953 or such other address as may from time to time be designated by the Board of Directors.

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IN WITNESS WHEREOF, the undersigned have signed these Articles of Incorporation, this 5th day of April, 1996

Jean Gutierl
JEAN GUTERL

FILED
CLERK OF STATE
OFFICE OF CORPORATIONS
MAY 10 PM 3:42

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State of Florida
County of St. Lucie

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared JEAN GUTERL well known to me and that he acknowledged the foregoing Articles of Incorporation of Tropical Shoppes of Bayshore Condominium Association, Inc.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at St. Lucie County, Florida this 5th day of April, 1996.

(Notarial Seal)



Rachel M. Sanchez
Notary Public
State of Florida
My Commission Expires: 10-7-97
Commission No.: CC423397

CERTIFICATE ACCEPTING DESIGNATION AS REGISTERED AGENT

I HEREBY CERTIFY that I have accepted designation as Registered Agent of Tropical Shoppes of Bayshore Condominium Association and agree to serve as its agent and to accept service of process within this State at its Registered Office, 1100 S.W. St. Lucie West Blvd., Suite 203, Port St. Lucie, Florida 34986.

Stephen Navaretta
STEPHEN NAVARETTA, ESQUIRE

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BYLAWS

OF

TROPICAL SHOPPES OF BAYSHORE CONDOMINIUM ASSOCIATION

These are the Bylaws of Tropical Shoppes of Bayshore Condominium Association (the "Association"), a corporation existing under the laws of the State of Florida, organized for the purpose of administering that certain condominium located in St. Lucie County, Florida, and known as Tropical Shoppes of Bayshore Condominium Association (the "Condominium").

1.01 Principal Office. The principal office of the Association shall be located at 612 S.W. Port St. Lucie Blvd., Port St. Lucie, Florida 34953, or at such other place as may be designated by the Board.

1.02 Fiscal Year. The fiscal year of the Association shall be the calendar year.

1.03 Seal. The seal of the Association shall bear the name of the corporation, the word "Florida," the words "corporation" and the year of incorporation.

1.04 Definitions. For convenience, these Bylaws shall be referred to as the "Bylaws"; the Articles of Incorporation of the Association as the "Articles"; the Declaration of Condominium for the Condominium as the "Declaration"; "Members" shall mean the Developer and Unit Owners as defined in the Declaration; and "Board" shall mean the board of directors of the Association. The other terms used in these Bylaws shall have the same definitions and meaning as those set forth in Chapter 718, Florida Statutes, The Condominium Act (the "Act"), as well as those set forth in the Declaration and the Articles, unless provided to the contrary in these Bylaws, or unless the context otherwise requires.

ARTICLE II
MEETING OF MEMBERS AND VOTING

2.01 Annual Meeting. The annual meeting of the Members shall be held on the first Monday in March or on such other date and at the place and time as determined by the Board from time to time, provided that there shall be an annual meeting every calendar year and no later than thirteen (13) months after the last annual meeting. The purpose of the meeting shall be to elect directors and to transact any other business authorized to be transacted by the Members.

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2.02 Special Meetings. Special meetings of the Members shall be held at such places as are provided for annual meetings and may be called by the president or by a majority of the Board, and must be called by the president or secretary on receipt of a written request from members holding at least ten percent (10%) of the voting interests. Requests for a meeting by the Members shall state the purpose for the meeting and business conducted at any special meeting shall be limited to the matters stated in the notice.

2.03 Notice of Annual Meeting. Written notice incorporating an identification of agenda items of the annual meeting shall be given to each Member at least fourteen (14) days and not more than sixty (60) days before the meeting and shall be posted in a conspicuous place on the Condominium Property at least fourteen (14) continuous days prior to the annual meeting.

2.04 Notice of Special Meetings, Generally. Except as modified by the specific requirements for certain meetings as set out in these Bylaws, notice of special meetings, generally, shall state the place, day and hour of the meeting and the purpose or purposes for which the meeting is called. The notice shall be given to all Members not less than fourteen (14) and not more than sixty (60) days before the date of the meeting. A copy of the notice of a special meeting shall be posted in a conspicuous place on the condominium property at least fourteen (14) continuous days before the meeting.

2.05 Notice of Budget Meeting. The board shall mail a notice of the meeting and a copy of the proposed annual budget to the Members not less than thirty (30) days before the meeting at which the Board will consider the budget.

2.06 Notice of Meeting to Consider Excessive Budget. If a budget adopted by the Board requires assessment against the Members for any calendar year exceeding one hundred fifteen percent (115%) of assessment for the preceding year, the Board, on written application of Members holding not less than ten percent (10%) of the voting interests, shall call a special meeting of the Members within not more than thirty (30) days and not less than ten (10) days after written notice to each Member.

2.07 Notice of Meeting to Consider Recall of Directors. A special meeting of the Members to recall a director may be called by Members holding at least ten percent (10%) of the voting interests giving notice of the meeting as required for a special meeting of the Members.

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2.08 Notice of Meeting to Elect Directors. In accordance with Florida Statute 718.112(2)(b)(2), the first notice of a meeting to elect a director or directors shall be given not less than sixty (60) days before the meeting and the second notice shall be given not less than thirty (30) days before the meeting. The meeting may be called and notice given by any Member if the Association fails to do so.

2.09 Quorum. A quorum at meetings of Members shall consist of persons entitled to cast, either in person or by proxy, a majority of the votes entitled to be cast by all Members. Absentee ballots may not be counted in determining a quorum.

2.10 Voting. Number of votes. In any meeting of Members, the Unit Owners shall be entitled to cast one (1) vote for each unit owned. The Developer shall have one (1) vote for each unit that is operated by the Association and that has not been conveyed to a third person. The vote of a unit is not divisible. The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum is present shall be binding on all Members for all purposes unless the Act, the Declaration, the Articles, or these Bylaws require a larger proportion of vote, in which case that larger proportion shall control.

2.11 Membership-Designation of Voting Member. Persons or entities shall become Members of the Association on the acquisition of fee title to a Unit after approval of the acquisition in the manner provided in the declaration. Membership shall be terminated when a person or entity no longer owns a Unit. If a Unit is owned by more than one person, any record owner of the unit may vote in person or by proxy, provided that there shall be no more than one vote per Unit. In the case of conflict among the Unit Owners of a Unit, the vote for that Unit shall not be counted as to the matter under consideration in which the conflict arose, and whether the conflict appears by vote in person or by proxy. Ballots may be cast for Units owned by corporations or partnership by a president, vice president, a partner, or any person designated in a written certificate filed with the secretary of the Association and signed by a president or vice president of a corporation or a partner or partnership.

2.12 Proxies. Votes may be cast in person or, in accordance with Florida Statute 718.112(2)(b)(2), by proxy.

2.13 Adjourned Meetings. If any meeting of Members cannot be organized because a quorum is not present, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present. The time and place to which the meeting is

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adjourned shall be announced at the meeting at which the adjournment is taken and notice of the adjourned meeting shall be given in the manner provided by Florida Statute 718.112(2) (d) (2) and these Bylaws.

2.14 Proof of Service and Waiver of Notice. All notices of meetings shall be in writing and served either personally or by first class mail, by or at the direction of the president, the secretary, or the officer or persons calling the meeting. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member at the address last furnished to the Association, with postage in the appropriate amount. Notice of any special meeting, by whomever called, shall be an obligation of the Association, provided that the Association itself receives notice of any special meeting on a basis sufficient to permit the Association to give the required notice. An officer of the Association shall provide an affidavit, it be included in the official records of the Association, affirming that a notice of any meeting of the Association was mailed or hand delivered, in accordance with the provision of the Act and these bylaws, to each member of the Association at the address last furnished to the Association. Members may waive their right to receive notice of any meeting, whether annual or special, by a writing signed by them to that effect. The waiver shall be filed with the secretary of the Association either before, at, or after the meeting for which the waive is given.

2.15 Action by Members without a Meeting. Members may take action by written agreement without a meeting, on matters for which action by written agreement without meeting is expressly allowed by the applicable bylaws, the Declaration or any statute which provides for such action, as long as written notice is given to the Members or waived by the Members in the manner prescribed elsewhere in these bylaws appropriate to the subject matter to be agreed on, unless that notice is waived as provided in these bylaws. The decision of a majority of the Members, or a larger proportion of the votes as otherwise may be required by the Act, the Declaration, the Articles or these Bylaws (the decision to be evidenced by written response to be solicited in the notice), shall be binding on the membership, provided a quorum submits a response. The notice shall set forth a time period within which responses must be made by the Members.

2.16 Minutes of Meetings. The minutes of all meetings of Members shall be reduced to writing within thirty (30) days after the meeting and kept in a book available for inspection by Members or their authorized representatives, and directors at any reasonable time. The minutes shall be retained by the Association for a period of not less than seven (7) years. Members and their authorized

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representatives shall have the right to make or obtain copies of the minutes and other official records of the Association, for a reasonable charge.

2.17 Order of Business. The order of business at annual meetings of members and as far as practical at other meetings of Members, shall be:

- (a) Call to order
- (b) Election of a chairman of the meeting, unless the president or vice president is present, in which case he shall preside
- (c) Calling of roll, certifying of proxies, determination of a quorum
- (d) Proof of notice of the meeting or waiver of notice
- (e) Reading and disposal of any unapproved minutes
- (f) Reports of officers
- (g) Reports of committees
- (h) Appointment of inspectors of election
- (i) Determination of number of directors
- (j) Election of directors
- (k) Unfinished business
- (l) New business
- (m) Adjournment

2.18 Actions Specifically Requiring Unit Owner Votes. The following actions require approval by the Members and may not be taken by the Board acting alone:

- (a) Amendments to the Declaration, except those made by the Developer in accordance with the Act, the Declaration, the Articles or these Bylaws, unless approval by the Members shall be expressly required.
- (b) Merger of two or more independent condominiums to form a single condominium.
- (c) Purchase of land or recreation lease.

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(d) Cancellation of certain grants or reservations made by the Declaration, a lease or other document and any contract made by the Association before the transfer of control of the Association from the developer to Members other than the developer.

(e) Exercise of option to purchase recreational or other commonly used facilities lease.

(f) Waive the Collection of Reserves, or to provide for less than adequate reserves.

(g) Recall of directors.

(h) Other matters contained in the Declaration, the Articles or these Bylaws that specifically require a vote of the Members

2.19 Secret Ballots. Secret ballots shall be used only as provided in Florida Statute 718.112 and applicable regulations.

ARTICLE III
DIRECTORS

3.01 Number and Qualifications. The affairs of the Association shall be managed initially by a Board of three (3) directors elected by the Developer. When Members other than the Developer are entitled to elect a majority of the directors, the Board shall be composed of any odd number of directors that the Members may decide. The number of directors, however, shall never be less than three (3). Other than those selected by the Developer, directors must be either Members, tenants residing in the Condominium Property, officers of corporate Unit Owner, or partners of a partnership Unit Owner, or beneficiaries of a trustee Unit Owner. No director (except those selected by the Developer) shall continue to serve on the Board after ceasing to be a Unit Owner or a tenant residing on the Condominium Property.

3.02 Election of Directors. Directors shall be elected at the annual meeting of Members by a plurality of votes cast. Each voter shall be entitled to cast the number of votes for as many nominees as there are vacancies to be filled. There shall be no cumulative voting. Members shall become candidates as provided in Florida Statute 718.112(2)(d)(3).

3.03 Term. Each director's term of service shall extend until the next annual meeting of the Members and thereafter until a successor is duly elected and qualified or until removed in the manner provided in Section 3.05. The Members, however, at any annual meeting after the Developer has relinquished control of the Association and in

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order to provide a continuity of experience, may vote to create classes of directorships having a term of not more than three (3) years so that a system of staggered terms will be initiated.

3.04 Vacancies. Vacancies on the Board created by any reason, recall of directors and elections shall be subject to the following provisions:

(a) Directors elected or appointed by Unit Owners other than the Developer shall be subject to recall only by Unit Owners other than the Developer. Voting interests owned or controlled by the Developer shall not vote in such recall, whether in person or by proxy. For purposes of establishing percentages of voting interests required by Section 718.112(2)(k), Florida Statutes, and for establishing a quorum pursuant to Section 718.112(2)(b), Florida Statutes, only units owned by Unit Owners other than the Developer shall be counted.

(b) Directors elected or appointed by the Developer shall be subject to recall only by the Developer. Voting interests owned or controlled by Unit owners other than the Developer shall not vote in such recall, whether in person or by proxy. For purposes of establishing percentages of voting interests required by Section 718.112(2)(k), Florida Statutes, and for establishing a quorum pursuant to Section 78.112(2)(b), Florida Statutes, only units owned or for which voting rights are held by the Developer shall be counted.

3.05 Removal. Any director, except those selected by the Developer, may be recalled and removed from office with or without cause by the vote or agreement in writing of a majority of all Members in accordance with Florida Statute 718.301. The procedures for recall shall be as provided in Florida Statute 718.112(2)(k).

3.06 Disqualification and Resignation. Any director may resign at any time by sending or personally delivering a written notice of resignation to the Association, addressed to the secretary. The resignation shall take effect on receipt by the secretary, unless it states differently. Any director elected by the Members who is absent from more than three (3) consecutive regular meetings of the Board, unless excused by resolution of the Board, shall be deemed to have resigned from the Board automatically, effective when accepted by the Board. Any director Member more than sixty (60) days delinquent in the payment of an assessment shall be deemed to have resigned from the Board, effective when the resignation is accepted by the Board.

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3.07 Organizational Meeting. The organizational meeting of a newly elected Board shall be held within ten (10) days of their election at a place and time that shall be fixed by the directors at the meeting at which they were elected and without further notice, except notice to Members as required by Section 718.112(2)(c), Florida Statutes.

3.08 Regular Meetings. The Board may establish a schedule of regular meetings to be held at a time and place as a majority of the directors shall determine from time to time. Notice of regular meetings, however, shall be given to each director personally or by mail, telephone or fax, at least three (3) days before the day named for the meeting with the notice of each meeting posted conspicuously on the Condominium Property at least forty-eight (48) continuous hours before the meeting, except in an emergency.

3.09 Special Meetings. Special meetings of the Board may be called by the president and, in the absence of the president, by the vice president, and must be called by the secretary at the written request of a majority of the Board. Notice of the meeting shall be given personally or by mail, telephone or fax. The notice shall state the time, place and purpose of the meeting and shall be transmitted not less than three (3) days before the meeting, except in an emergency. A copy of the notice of any special meeting shall be posted conspicuously on the condominium property at least forty-eight (48) continuous hours before the meeting, except in an emergency.

3.10 Waiver of Notice. Any director may waive notice of a meeting before, at or after the meeting and that waiver shall be deemed equivalent to the giving of notice. Attendance by any director at a meeting shall constitute a waiver of notice of the meeting, except when such director's attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

3.11 Quorum. A quorum at the meeting of the directors shall consist of a majority of the entire Board. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board, except when approval by a greater number of directors is required by the Declaration, the Articles or by these Bylaws.

3.12 Adjourned Meetings. If there is less than a quorum present at any meeting of the Board, the majority of those present may adjourn the meeting until a quorum is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted. A copy of the notice of any adjourned

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meeting shall be posted conspicuously on the condominium property at least forty-eight (48) hours before the meeting.

3.13 No Proxy. There shall be no voting by proxy at any meeting of the Board.

3.14 Joinder in Meeting by Approval of Minutes. A director may join in the action of a meeting by signing and concurring in the minutes of that meeting. That concurrence, however, shall not constitute the presence of that director for the purpose of determining a quorum.

3.15 Meeting Open to Members. Meetings of the Board shall be open to all members to attend, observe and speak on all designated agenda items. Notice of any meeting in which assessments against members are to be considered for any reason shall specifically contain a statement that assessments will be considered and set out the nature of the assessments.

3.16 Presiding Officer. The presiding officer at the Board meetings shall be the president or, in his absence, the vice president, and in his absence, the directors present shall designate any other director present to preside.

3.17 Minutes of Meeting. The minutes of all meetings of the Board of Directors shall be reduced to writing within thirty (30) days after the meeting and kept in a book available for inspection by Members or their authorized representatives, and directors at any reasonable time. The minutes shall be retained by the Association for a period of not less than seven (7) years. Members and their authorized representatives shall have the right to make or obtain copies of the minutes and other official records of the Association, for a reasonable charge.

3.18 Executive Committee. The Board, after turnover by the Developer may by resolution appoint an executive committee to consist of two (2) or more directors. The executive committee shall have and may exercise all of the powers of the Board in the management of the business and affairs of the Association during the intervals between the meetings of the Board insofar as may be permitted by law. The executive committee, however, shall not have the power to:

- (a) Determine the Common Expenses;
- (b) Determine the assessments payable by the Members to meet the Common Expenses;

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(c) Adopt or amend rules and regulations concerning the details of the operation and use of the Condominium Property;

(d) Purchase, lease or otherwise acquire Units in the name of the Association;

(e) Approve any actions or proposals required by the Act, the Declaration, the Articles or these Bylaws to be approved by Members; or

(f) Fill vacancies on the Board;

Meetings of the executive committee shall be open to members.

3.19. Compensation. Directors shall serve without pay but shall be entitled to reimbursement for expenses reasonably incurred in the discharge of their duties.

3.20. Order of Business. The order of business at meetings of directors shall be:

- (a) Calling of the roll
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading and disposal of any unapproved minutes
- (d) Reports of officers and committees
- (e) Election of officers
- (f) Unfinished business
- (g) New business
- (h) Adjournment

3.21 Election of Directors by Members. The rights of Members other than the Developer to serve as directors and the rights of the Developer to representation on the Board shall be as follows:

(a) When Members other than the Developer own fifteen percent (15%) or more of the Units that will be operated ultimately by the Association, they shall be entitled to elect no less than one-third (1/3) of the directors.

(b) Members other than the Developer are entitled to elect not less than a majority of the directors:

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

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

(3) ~~When all the Units that ultimately will be operated 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.~~

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

(5) ~~Seven (7) years after recordation of the Declaration creating the initial phase.~~

(c) The Developer is entitled to elect directors in accordance with Florida Statute 718.301 and applicable regulations.

(d) Within seventy-five (75) days after the Members other than the Developer are entitled to elect a director or directors, the Association shall call, and give not less than sixty (60) days' notice of a meeting of the Members to elect directors. The meeting may be called and the notice given by any Unit Owner if the Association fails to do so. Upon election of the first Unit Owner other than the Developer as a director, the Developer shall forward to the division the name and mailing address of the Unit Owner director.

(e) At the time that members other than the Developer elect a majority of the directors, the Developer shall relinquish control of the Association and the Members shall accept control. Simultaneously, the Developer shall deliver to the Association all property of the Members and of the Association held or controlled by the Developer, including but not limited to those items specified in the Act.

(f) In any action brought to compel compliance with Section 718.301, Florida Statutes, regarding transfer of Association control and election of directors by Members other than the Developer, the summary procedure provided for in Section 51.011, Florida Statutes, may be employed, and the prevailing party shall be entitled to recover reasonable attorneys' fees.

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(g) Nothing contained in this Section 3.21 shall be deemed to prevent the Developer from transferring control of the Association to Members other than the Developer before the occurrence of the events described in this section.

3.22 Failure to Elect Director Quorum. If the Association or the Board fails to fill vacancies on the Board sufficient to constitute a quorum, any Member, may apply to the circuit court within whose jurisdiction the Condominium Property is situated for the appointment of a receiver to manage the affairs of the Association, in the manner prescribed in the Act. 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 the powers and duties of a duly constituted Board and shall serve until the Association fills vacancies on the Board sufficient to constitute a quorum.

3.23 Procedures for Election of Director. In accordance with Florida Statute 718.112(2)(d)3, directors shall be elected by written ballot, without the use of proxies, pursuant to procedures established by applicable regulatory authorities.

**ARTICLE IV
POWERS AND DUTIES OF THE BOARD**

4.01 Powers and Duties. All of the powers and duties of the Association existing under the Act, the Declaration, the Articles and these Bylaws shall be exercised exclusively by the Board, or its duly authorized agents, contractors or employees, subject only to the approval by Members when that approval is specifically required. The powers and duties of the Board shall include, but shall not be limited to the following:

(a) To manage the Condominium Property.

(b) To contract, sue or be sued. After control of the Association is obtained by Members other than the Developer, the Association may institute, maintain, settle or appeal actions or hearings in its name on behalf of all Members concerning matters or common interest, including but not limited to the Common Elements and commonly-used facilities. The statute of limitations for any actions in law or equity that the Association may have shall not begin to run until the Members have elected a majority of directors.

(c) To enter each Unit during reasonable hours as necessary for the maintenance, repair or replacement of any Common Elements or for making emergency repairs as necessary to prevent damage to the Common Elements or to another Unit or Units.

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(d) To make and collect assessments.

(e) To lease and maintain the Commons Elements.

(f) To assert and foreclose liens for unpaid assessments. The Association has a lien on each Unit for any unpaid assessments with interest and for reasonable attorneys' fees incurred in the collection of the assessment or enforcement of the lien. It also has the power to purchase the Unit at the foreclosure sale and to hold, lease, mortgage or convey it.

(g) To purchase Units. In addition to its right to purchase Units at a lien foreclosure sale, the Association generally has the power to purchase Units in the condominium and to acquire, hold, lease, mortgage and convey them.

(h) To modify easements. The Association, without the joinder of any Member, may grant, modify or move any easement for ingress and egress or for utilities purposes if the easement constitutes part of Common Elements.

(i) To authorize certain amendments. If there is an omission or error in the Declaration or other document required by law to establish the Condominium, an amendment to the Declaration correcting the error may be approved as provided in Section 16.2 of the Declaration. This procedure for amendment cannot be used if such an amendment would materially or adversely affect property rights of Members, unless affected Members consent in writing.

(j) To adopt rules and regulations. The Association may adopt reasonable rules and regulations for the use of the Common Elements serving the Unit Owners.

(k) To maintain accounting records.

(l) To obtain insurance. The Association shall use its best efforts to obtain and maintain adequate insurance to protect the Association and the Common Elements.

(m) To furnish annual financial reports to members.

(n) To give notice of liability exposure. If the Association may be exposed to liability in excess of insurance coverage in any legal action, it shall give notice of the exposure to all Members, who shall have the right to intervene and defend.

(o) To provide certificates of unpaid assessment. Any Member, mortgagee or other record lienholder has the right to require from the Association a certificate showing the amount of unpaid assessments respecting the Member's Unit.

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- (p) To pay the annual fees due to the State of Florida.
- (q) To maintain records for management of the Condominium Property.
- (r) To contract for management of the Condominium Property.
- (s) To pay taxes or assessments against the Condominium Property or the Association.
- (t) To pay costs of utilities services.
- (u) To employ personnel. The association may employ and dismiss personnel as necessary for the maintenance and operation of the Condominium Property and may retain those professional services that are required for those purposes.
- (v) To levy fines. The Board may levy fines against a Unit as provided in Section 15.5 of the Declarations.
- (w) To authorize private use of the common elements.
- (x) To repair or reconstruct improvements as to the Common Elements.
- (y) To accept a Certificate of Compliance from a licensed electrical contractor as evidence of compliance of the Condominium Units to the applicable fire and life safety code.

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ARTICLES V OFFICERS

5.01 Executive Officers. The executive officers of the Association shall be a president, who shall be a director, a vice president, who shall be a director, a treasurer, a secretary and an assistant secretary. The officers shall be elected annually by the Board and may be removed without cause at any meeting by a vote of a majority of all directors. A person may hold more than one office except that the president may not also be the secretary or assistant secretary. No person shall sign an instrument nor perform an act in the capacity of more than one office. The Board from time to time shall elect other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

5.02 President. The president shall be the chief executive officer of the Association, with all the powers and duties that usually are vested in the office of the president of an Association, including but not limited to

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the power to appoint committees from among the Members to assist in the conduct of the affairs of the Association. The president shall preside at all meetings of the Board.

5.03 Vice President. The vice president shall exercise the powers and perform the duties of the president in the absence or disability of the president, and shall assist the president and exercise those other powers and perform those other duties as shall be prescribed by the directors.

5.04 Secretary. The secretary shall keep the minutes of all proceedings of the Board and the Members; attend to the serving of all notices to the members and directors and other notices required by law; have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed; keep the records of the Association, except those of the treasurer; and perform all other duties incident to the office of secretary of an Association and as may be required by the directors of the president.

5.05 Treasurer. The treasurer shall have custody of all property of the Association, including funds, securities and evidence of indebtedness; keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board for examination at reasonable times; submit a treasurer's report to the Board at reasonable intervals; and perform all other duties incident to the office of treasurer. All money and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by the Board.

5.06 Compensation. The compensation, if any, of all officers and other employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from employing with a director for the management of the Condominium Property.

ARTICLE VI
FISCAL MANAGEMENT

6.01 Board Adoption of Budget. The Board shall adopt a budget for the Common Expenses of the Association in advance of each fiscal year at a special meeting of the Board called for that purpose at least forty-five (45) days before the end of each fiscal year.

6.02 Budget Requirements. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense

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classifications, including, when applicable, but not limited to:

- (a) Administration of the Association
- (b) Management fees
- (c) Maintenance
- (d) Rent for commonly used facilities
- (e) Taxes on association property
- (f) Taxes on leased areas
- (g) Insurance
- (h) Security provisions
- (i) Other expenses
- (j) Operating capital

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(k) Reserve accounts for capital expenditures and deferred maintenance, including, but not limited to, roof replacement, building painting and pavement resurfacing.

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6.03 Notice of Budget Meeting. The Board shall mail a meeting notice and copies of the proposed annual budget to the Members not less than thirty (30) days before the meeting at which the budget will be considered. The meeting shall be open to all Members.

6.04 Member Rejection of Excessive Budget. If a budget adopted by the Board requires assessment against the Members in any fiscal year exceeding one hundred fifteen percent (115%) of the assessment for the previous year, the Board, on written application of Members holding at least ten percent (10%) of the voting interests, shall call a capital meeting of the members within thirty (30) days as provided in Section 2.5. At the special meeting, Members shall consider and enact a budget by not less than a majority vote of all Members. Provisions for reasonable reserves for repair or replacement of the Condominium Property shall be excluded from the computation in determining whether assessments exceed one hundred fifteen percent (115%) of similar assessments in the previous year.

6.05 Alternative Budget Adoption by Members. At its option, for any fiscal year, the Board may propose a budget to the members at a meeting of Members or in writing. If the proposed budget is approved by the Members at the meeting or by a majority of all Members in writing, the budget shall be adopted.

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6.06 Budget Restraints on Developer. As long as the developer is in control of the Board, the Board shall not impose an assessment for any year greater than one hundred fifteen percent (115%) of the previous year's assessment without approval of a majority of all Members.

6.07 Accounting Records and Reports. The Association shall maintain accounting records in the county in which the Condominium Property is located, according to good accounting practices. The records shall be open to inspection by members or their authorized representatives at reasonable inspection by members or their authorized representatives at reasonable times. The records shall include, but are not limited to: (a) a record of all receipts and expenditures and (b) an account for each unit, designating the name and current mailing address of the unit owner, the amount of each assessment, the dates and amounts in which the assessments come due, the amount paid on the account and the balance due. Within sixty (60) days after the end of each fiscal year, the Board shall mail or furnish by personal delivery to each Member a complete financial report of actual receipts and expenditures for the previous twelve (12) months.

6.08 Depository. The depository of the Association shall be those banks or savings and loan associations, state or federal, located in Florida, as shall be designated from time to time by the Board in which the money for the Association shall be deposited. Withdrawal of money from those accounts shall be only by checks or other withdrawal instruments signed by those persons as authorized by the Board.

6.09 Fidelity Bonding. Any person who controls or disburses funds of the Association shall be bonded by a fidelity bond in the principal sum of not less than fifty thousand dollars (\$50,000.00) or such lesser amount as may be permitted by Florida Statutes 718. The cost of bonding shall be at the expense of the Association, unless otherwise provided by contract between the Association and an independent management company.

6.10 Annual Election of Income Reporting Method. The Board shall make a determination annually, based on competent advice on the method of reporting association's income to the Internal Revenue Service, according to which method of reporting shall best serve the interests of the Association for the reporting period under consideration.

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ARTICLE VII ASSESSMENTS AND COLLECTIONS

7.01 Assessments, Generally. Assessments shall be made against the Members monthly. The assessments shall be made in an amount no less than required to provide funds in advance for payment of all of the anticipated current operating expenses, for all of the unpaid operating expenses previously incurred and appropriate reserves. The assessment funds shall be collected against members in the proportions provided in the Declaration. Members' shares of Common Expenses shall be in the same proportions as their ownership interest in the Common Elements. Assessments shall be utilized by the Association only for Common Expenses as such expenses are defined in Section 718.115(1), Florida Statutes and solid waste collection and disposal. Assessments, specifically including accelerated payment of Common Expenses levied by the Association against a Unit for nonpayment or late payment of Assessments for Common Expenses, shall be levied against a Unit not less frequently than quarterly. Provided however, that assessments for utilities, including solid waste services, may be allocated based upon actual usage.

7.02 Emergency Assessments. Assessments for Common Expenses of emergencies that cannot be paid from the annual assessment for common expenses shall be made by the Board thirty (30) days after written notice to the Members. These assessments shall be paid at the times and in the manner that the Board may require in the notice of assessment.

7.03 Assessment for Charges. Charges by the Association against Members for other than Common Expenses shall be payable in advance. Charges for other than Common Expenses may be made only after approval of the Member to be charged or when expressly provided for in the Declaration or other condominium documents. These charges may include, without limitation, charges for the use of the Common Elements or recreation area, maintenance services furnished at the expense of a Member and other services furnished for the benefit of a Member.

7.04 Liability for Assessments. Each Member regardless of how title is acquired, shall be liable for all assessments coming due during the term of ownership. The Member and any grantee of the Member in a voluntary conveyance shall be jointly and severally liable for all unpaid assessments due and payable up to the time of the voluntary conveyance. The liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Element or by abandonment of the Unit for which the assessments are made.

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7.05 Assessments; Amended Budget. If the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board. Unpaid assessments for the remaining portion of the year for which an amended assessment is made shall be payable in as many equal installments as there are installment payment dates remaining in the budget year as of the date of the amended assessment. The budget shall not be amended for emergency or special nonrecurring expenses.

7.06 Collection; Interest, Application of Payment. Assessment and installments on them, if not paid within five (5) days after the date due, shall bear interest at the rate of eighteen percent (18%) per year until paid. All assessment payments shall be applied first to interest and then to assessment payment due. Interest charges for non payment of Assessments are not a late fee, fine or other penalty and such charges shall be calculated over the actual period of deficiency. An administrative charge not in excess of the greater of \$25.00 or 5% of the past due amount shall be charged.

7.07 Lien for Assessment. The Association has a lien on each Unit for any unpaid assessments with interest and for reasonable attorneys' fees incurred by the Association incident to the collection of the assessment or enforcement of the lien. The lien is effective after recording a claim of lien in the public records in the county in which the Unit is located for a period no longer than one (1) year, unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction. The claim of lien includes those assessments that are due at the time the lien is recorded and all unpaid assessments, interest, costs and attorneys' fees which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgment of foreclosure. The lien is subordinate to any mortgage on the Unit recorded before it.

7.08 Collection; Suit, Notice. The Association may bring an action to foreclose any lien for assessment in the manner that a mortgage of real property is foreclosed. It also may bring an action to recover a money judgment for the unpaid assessment without waiving any claim of lien. The Association shall give notice to the Unit owner of its intention to foreclose its lien at least thirty (30) days before the foreclosure action is filed. The notice shall be given by delivery of a copy of it to the Member or by certified mail, return receipt requested, addressed to the Member.

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**ARTICLE VIII
ASSOCIATION CONTRACTS**

8.01 **Fair and Reasonable Cancellation.** Any contract made by the Association before the Members assume control from the Developer must be fair and reasonable. All contracts for the operation, maintenance or management of the Association or property serving the Members, made by the Association, whether before or after assumption of control of the Association by the Members, must not be in conflict with the powers and duties of the Association or the rights of the Members. Contracts made by the Association before the Members assume control may be canceled by the Members after assumption of control in the manner and under the circumstances as provided in the Act.

8.02 **Escalation Clauses Prohibited.** No management contract entered into by the Association shall contain an escalation clause, since they have been declared to be against the public policy of the State of Florida.

8.03 **Maintenance and Management Contracts.** Written contracts for operation, maintenance and management entered into by the Association must contain certain elements in order to be valid and enforceable. These include, but are not limited to:

- (a) Specification of the services, obligations and responsibilities of the service provider.
- (b) Specification of costs for services performed.
- (c) An indication of frequency of performance of services.
- (d) Specification of minimum number of personnel to provide the services contracted for.
- (e) The disclosure of any financial or ownership interest that the Developer has in the service provided, if the Developer is in control of the Association.
- (f) Provisions for termination and cancellation of service.
- (g) Proof of worker's compensation and liability insurance.

**ARTICLE IX
ROSTER OF MEMBERS AND MORTGAGEES**

9.01 **Rosters.** Each member shall file with the Association a copy of the deed or other instrument showing

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such Member's ownership of a Unit, together with a copy of any mortgage on the Unit and any satisfaction of that mortgage. The Association shall maintain these documents in a suitable binder for reference as required in the exercise of its powers and duties.

**ARTICLE X
COMPLIANCE AND DEFAULT**

10.01 Violations, Notice, Actions. In the case of a violation (other than the nonpayment of an assessment) by a Member of any of the provisions of the Act, the Declaration, the Articles, these Bylaws or any lawfully adopted rules and regulations, the Association by direction of the Board may transmit to the Member by United States Certified Mail, return receipt requested, a notice of the violation. If the violation shall continue for a period of ten (10) days from the date of the notice, the Association shall have the right to treat the violation as an intentional and material breach of the provision cited in the notice. Thereafter the Association, at its option, in addition to its right to impose fines under Section 15.5 of the Declaration, may take the following actions:

- (a) File an action to recover for its damages on behalf of the Association or on behalf of other Members.
- (b) File an action for injunctive relief requiring the offending Member to take or desist from taking certain actions.
- (c) File an action for both damages and injunctive relief.
- (d) Extend the time for corrective action.

10.02 Attorney's Fees. In any action brought pursuant to the provisions of Section 10.01, the prevailing party is entitled to recover reasonable attorneys' fees.

10.03 No Waiver of Rights. Neither a Member nor the Association may waive a provision of the Act if that waiver would adversely affect the rights of a Member or the purposes of the provision, except that Members or directors may waive notice of specific meetings in writing.

10.04 Emergency Action. The Board may take emergency action reasonable under the circumstances to cure any clear and present threat to or impairment of the Common Elements. The person responsible for the creation of the emergency situation shall be assessed the cost of remedial action.

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**ARTICLE XI
ARBITRATION OF INTERNAL DISPUTES**

11.01 Arbitration. The provisions of Florida Statute 718.1255 for mandatory non-binding arbitration are hereby incorporated into these bylaws by reference.

**ARTICLE XII
LIABILITY SURVIVES MEMBERSHIP TERMINATION**

12.01 Liability. Termination of membership in the Association shall not relieve or release a former Member from liability or obligation incurred with respect to the Condominium Property or to the Association during the period of membership, nor impair any rights or remedies that the Association may have against the former Member arising out of such membership and the covenants and obligations in respect to that membership.

**ARTICLE XIII
LIMITATIONS OF LIABILITY FOR USE OF COMMON ELEMENTS**

13.01 Limitations. Each Member may be personally liable for the acts or omissions of the Association relating to the use of the Common Elements. That liability shall be shared with other Members in the same proportions as their respective interests in the Common Elements. No individual Member's liability shall exceed the value of such Member's Unit. If more than one (1) Member is the Unit Owner of a Unit, the liability of all such Members shall be joint and several but limited in the aggregate to the value of their Unit.

**ARTICLE XIV
RULES AND REGULATIONS**

14.01 Board may Adopt. The Board may adopt and amend, from time to time, reasonable rules and regulations governing the conduct of meetings of the Board and the Members of the Association, and the use and operation of the Unit's Common Elements serving the Unit Owners.

14.02 Posting and Furnishing Copies. A copy of the rules and regulations adopted from time to time by the Board, and any amendments to existing rules and regulations, shall be posted in a conspicuous place on the Condominium Property and a copy furnished to each Member. No rule, regulation or amendment shall become effective until thirty (30) days after posting, except in the case of an emergency, in which case the rule or regulation or amendment shall become effective immediately on posting.

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14.03 Limitations on Authority. The Board may not unreasonably restrict the right of any Member to peaceably assemble.

14.04 Reasonableness Test. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of the health, happiness and comfort of the Members and shall be uniformly applied and enforced.

14.05 Fines. The Association shall not assess a fine against a Unit Owner unless and until the following procedure has been completed:

(a) The Association shall give notice to the party against whom the fine is sought to be levied not less than fourteen (14) days prior to a hearing on the matter. The notice shall state the date, time and place of the hearing; a statement of the provisions of the Declaration, Bylaws or Rules and Regulations allegedly violated; and a short plain statement of the matters asserted by the Association.

**ARTICLE XV
RESTRICTION ON USE OF UNITS**

15.01 Where Contained. Restrictions on the use, maintenance and appearance of the Units shall be stated in the Declaration or Rules and Regulations and no amendments or additions shall be contained elsewhere than in the Declaration as adopted by a vote of the Members in the manner prescribed elsewhere in these Bylaws.

15.02 Tests for Validity of Restrictions. Restrictions contained in the Declaration and any amendments duly adopted by a vote of the Members shall be valid and in the nature of covenants running with the land, unless it is shown that they are wholly arbitrary in their application, or violate public policy or abrogate some fundamental constitutional rights.

**ARTICLE XVI
PRIORITIES IN CASE OF CONFLICT**

16.01 Priorities. In the event of conflict between or among the provisions of any of the following, the order of priorities shall be from the highest priority to the lowest as follows: (a) The Act; (b) the Declaration; (c) the Articles; (d) the Bylaws; and (e) the rules and regulations adopted by the Board.

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**ARTICLE XVII
INDEMNIFICATION**

17.01 Indemnification. Every person serving as an officer or director of the Association shall be indemnified by the Association against all expenses and liabilities, including reasonable attorneys' fees incurred and imposed in connection with any proceedings to which such person may be a party, or in which such person may become involved by reason of being or having been an officer or director of the Association, whether or not such person is an officer or director at the time the expenses are incurred. Any person serving as an officer or director shall not be indemnified if such person is adjudged guilty of gross negligence or willful misconduct or is adjudged to have breached their fiduciary duty to the Members of the Association. The Association shall not be liable, however, for payment of voluntary settlement unless it is first approved by the Board. The foregoing rights shall be in addition to and not exclusive of all other rights to which the officer or director may be entitled.

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**ARTICLE XVIII
DEFECTIVE CONDOMINIUM DOCUMENTS, CURATIVE PROVISIONS**

18.01 Scrivener Errors. The Association may file amendments to the Declaration, and the Exhibit thereof, in order to correct minor errors and scrivener errors which do not adversely affect the rights of the Members.

18.02 Curative Provisions. The Association or a Member may petition the circuit court having jurisdiction in the county where the Condominium Property is located to correct an error or omission in the Declaration or any other document required to establish the condominium, affecting its valid existence, and in which errors or omissions are not correctable by the amendment procedures in the Declaration or in the Act.

**ARTICLE XIX
AMENDMENTS**

19.01 Amendments. Amendments to these Bylaws shall be proposed and adopted in the following manner.

(a) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered.

(b) An amendment may be proposed by either a majority of the Board or by Members holding not less than ten percent (10%) of the voting interests. The Amendment shall be adopted if it is approved either by: (a) Members holding

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not less than ~~sixty-seven percent (67%)~~ of the voting interests and by not less than ~~sixty-seven percent (67%)~~ of the Board; or (b) by the Members holding not less than eighty percent (80%) of the voting interests.

(c) No amendments shall be made that are in conflict with the Act or the Declaration or the Articles, nor shall any amendment abridge, alter or amend the rights of the Developer or mortgagees of Units without their consent.

(d) A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of the Declaration. The certificate shall be executed by the president or vice president and attested by the secretary or assistant secretary of the Association with formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of the county where the Condominium Property is located.

(e) Proposals to amend existing Bylaws shall contain the full text of the Bylaws to be amended. New words shall be underlined and words to be deleted shall be lined through with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of bylaw. See bylaw _____ for present text."

19.02 Amendment by Implication. These Bylaws shall be deemed amended without any act of the Board of Members, or any recording, in those particulars as may be required to make them consistent and in compliance with the provisions of the Act, as it may from time to time be amended.

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**ARTICLE XX
NOTICES**

20.01 Notices. All notices required to be given by the Declaration, the Articles of Incorporation or these Bylaws shall be deemed properly delivered, unless otherwise provided by law when mailed to the Association's Registered Agent as last shown on the Records of the Secretary of State of Florida and to any Unit Owner at the Unit owned by such Unit owner, or such other address as the Unit Owner shall have designated by written notice to the Association, by United States Certified Mail, Return Receipt Requested.

**ARTICLE XXI
CONSTRUCTION**

21.01 Construction. Whenever the context permits or requires, the singular shall include the plural, the

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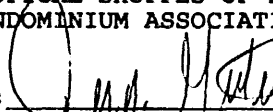
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plural shall include the singular, and the use of any gender shall be deemed to include all genders.

The foregoing were adopted as the Bylaws of Tropical Shoppes of Bayshore Condominium Association.

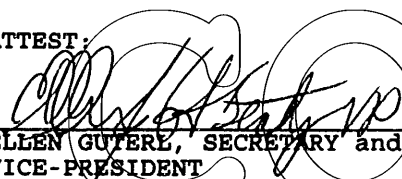
TROPICAL SHOPPES OF BAYSHORE
CONDOMINIUM ASSOCIATION

BY:



JEAN GUTIERL, PRESIDENT

ATTEST:


ELLEN GUTIERL, SECRETARY and
VICE-PRESIDENT

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