

This Instrument Prepared by and Return to:

Erik F. Whynot, Esq.
WHYNOT LAW FIRM
1280 Seminola Blvd.
Casselberry, Florida 32707
407-541-0050

**CERTIFICATE OF SECOND AMENDMENT TO THE
DECLARATION OF CONDOMINIUM OWNERSHIP FOR THE JAMESTOWN
CONDOMINIUM; FIRST AMENDMENT TO THE ARTICLES OF INCORPORATION FOR
JAMESTOWN OF INDIAN HARBOR BEACH HOMEOWNERS' ASSOCIATION, INC.; AND,
FIRST AMENDMENT TO THE BYLAWS FOR JAMESTOWN OF INDIAN HARBOR BEACH
HOMEOWNERS' ASSOCIATION, INC.**

This Certificate of Second Amendment to the Declaration of Condominium Ownership for the Jamestown Condominium ("Certificate"), is made this 27 day of JULY 2022 by JAMESTOWN OF INDIAN HARBOR BEACH HOMEOWNERS' ASSOCIATION, INC., a Florida not for profit corporation ("Association").

W I T N E S S E T H:

WHEREAS, that certain Declaration of Condominium Ownership for the Jamestown Condominium, was recorded at Book 2001, Page 581, in the Official Records for Brevard County, Florida ("Original Declaration"), as amended by that First Amendment to the Declaration of Condominium Ownership for the Jamestown Condominium, that was recorded at Book 4485, Page 291, in the Official Records for Brevard County, Florida ("First Amendment"). Collectively, all of the above Declarations and any subsequent amendments thereto are referred to as the "Declaration";

WHEREAS, the Association's Articles of Incorporation are attached as Exhibit "P" to the Declaration and are recorded at Book 2001, Page 670, in the Official Records for Brevard County, Florida ("Articles");

WHEREAS, the Association's Bylaws are attached as Exhibit "O" to the Declaration and are recorded at Book 2001, Page 550, in the Official Records for Brevard County, Florida ("Bylaws");

WHEREAS, the Association desires to restate and amend its Declaration as shown at Exhibit 1 ("Second Amendment"), attached hereto;

WHEREAS, the Association desires to restate and amend its Articles as shown at Exhibit 2 ("First Amendment to Articles"), attached hereto;

WHEREAS, the Association desires to restate and amend its Bylaws as shown at Exhibit 3 ("First Amendment to Bylaws"), attached hereto;

WHEREAS, pursuant to Article XIII, Section B, of the Declaration, the Declaration may be changed, modified or amended by the affirmative vote of at least 66 2/3% of the total voting interests at a meeting where a quorum of the membership (33%) has been obtained;

WHEREAS, pursuant to Section 10.3 of the Articles, the Articles may be changed, modified or amended by the affirmative vote of not less than 66 2/3% of the Board of Directors and by not less than 66 2/3% of the entire voting membership at a meeting where a quorum of the membership (33%) has been

obtained;

WHEREAS, pursuant to Article VII, Section 2, of the Bylaws, the Bylaws may be changed, modified or amended by the affirmative vote of not less than 66 2/3% of the total voting interests at a meeting where a quorum of the membership (33%) has been obtained;

WHEREAS, a duly noticed meeting of the members of the Association was held on July 25, 2022, where a quorum was obtained to hold the membership meeting and tally the votes on the proposed Second Amendment, First Amendment to Articles, and First Amendment to Bylaws.

WHEREAS, at said membership meeting, at least 66 2/3% of the Board of Directors voted in favor of the proposed Second Amendment and at least 66 2/3% of the total membership voted in favor of the proposed Second Amendment, First Amendment to Articles, and the First Amendment to Bylaws.

NOW, THEREFORE, the Association hereby files and records the following documents applicable to the Association as follows:

- **EXHIBIT 1:** Amended and Restated Declaration for the Jamestown Condominium
- **EXHIBIT 2:** Amended and Restated Articles of Incorporation of Jamestown of Indian Harbor Beach Condominium Association, Inc.
- **EXHIBIT 3:** Amended and Restated Bylaws of Jamestown of Indian Harbor Beach Condominium Association, Inc.

1. The foregoing recitals are true and correct and are incorporated into and form a part of this Certificate.

2. In the event there is conflict between this Second Amendment and the Declaration, this Second Amendment shall control.

3. In the event there is conflict between this First Amendment to Articles and the Articles, this First Amendment to Articles shall control.

4. In the event there is conflict between this First Amendment to Bylaws and the Bylaws, this First Amendment to Bylaws shall control.

5. The Declaration and this Second Amendment shall be read as one document wherever possible.

6. The Articles and the First Amendment to Articles shall be read as one document wherever possible.

7. The Bylaws and the First Amendment to Bylaws shall be read as one document wherever possible.

8. All provisions of the Declaration, the Articles and the Bylaws that are not specifically amended herein remain in full force and effect.

9. The Declaration is hereby amended as indicated on the attached **Exhibit 1**.

10. The Articles are hereby amended as indicated on the attached Exhibit 2.

11. The Bylaws are hereby amended as indicated on the attached Exhibit 3.

IN WITNESS WHEREOF, the undersigned has executed this Certificate on this 27th day of July, 2022.

WITNESSES:

Karie B Deno
Sign Name

Karie B Deno
Print Name

Jarad Holt
Sign Name

Tara L. Scott
Print Name

JAMESTOWN OF INDIAN HARBOR
BEACH HOMEOWNERS' ASSOCIATION,
INC., a Florida not for profit corporation,

By: Daniel M Klein
Sign Name

DANIEL M KLEIN
Print Name

Its: President

STATE OF INDIANA)
COUNTY OF LAKE)

The foregoing instrument was acknowledged before me this 27 day of JULY 2022, by, DANIEL M KLEIN as President of JAMESTOWN OF INDIAN HARBOR BEACH HOMEOWNERS' ASSOCIATION, INC., a Florida not for profit corporation, who ___ is personally known to me or, ___ produced ___ as identification.

Karie B Deno
NOTARY PUBLIC - STATE OF INDIANA

Comm. Exp.: 8-22-28

Karie B Deno
Print Name of Notary

Serial/Comm. No.: NP0637858

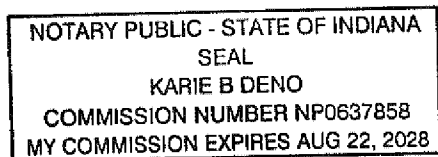


EXHIBIT 1

**AMENDED AND RESTATED¹
DECLARATION
for
THE JAMESTOWN CONDOMINIUM**

This Amended and Restated Declaration for the Jamestown Condominium (“Declaration”) is made this _____ day of _____, 2022, by JAMESTOWN OF INDIAN HARBOUR BEACH HOMEOWNERS’ ASSOCIATION, INC. n/k/a JAMESTOWN OF INDIAN HARBOUR BEACH CONDOMINIUM ASSOCIATION, INC., a Florida Not for Profit Corporation (“Association”).

RECITALS

WHEREAS, Developer, Jamestown of Indian Harbor Beach Co., an Ohio corporation, recorded the Declaration of Condominium Ownership for the Jamestown Condominium (“*Original Declaration*”), at Book 2001, Page 581, in the Official Records for Brevard County, Florida, as amended by the Amendment to Declaration of Condominium for the Jamestown Condominium (“*First Amendment*”), at Book 2047, Page 15, in the Official Records for Brevard County, Florida, as amended by the Declaration Amendment (“*Second Amendment*”), at Book 4485, Page 291, in the Official Records for Brevard County, Florida The above documents will be collectively referred to as the “Original Declaration”; and

WHEREAS, this Amended and Restated Declaration for the Jamestown Condominium (“Declaration”), is such an extensive change to and substantial rewording of the Original Declaration that specifically identifying each change to the Original Declaration would hinder, rather than assist, an understanding of this document and the amendments to the Original Declaration; and

WHEREAS, at a Meeting of the Members of the Association held on July 25, 2022, this Declaration was adopted and approved by at least 66 2/3% of the total voting membership of the Association pursuant to Article XIII, Section B, of the Original Declaration; and

NOW, THEREFORE, the Original Declaration is hereby amended and restated, by this Declaration such that all property subject to the Original Declaration, as well as all property included within any Amendment referenced above shall hereafter be subject to this Declaration. All Exhibits to the Original Declaration, as amended from time to time, including that subject to reformation, are incorporated herein by reference as if fully attached as Exhibits hereto.

DECLARATION

The Developer, for itself and on behalf of its successors and assigns, hereby submits the Land lying and being in Brevard County, Florida, owned in fee simple by Developer, together with

¹ This Document contains substantial rewording and amendment to the initial Declaration and the subsequent amendments thereto. The ~~stricken through~~ and underlined version of this document showing all additions and deletions is available for review upon request to the Association.

all buildings and improvements thereon, and all rights and easements appurtenant thereto, including those created hereafter, to the provisions of Chapter 718, and which is hereby submitted to the condominium form of ownership and is legally described as follows:

From the Southwest corner of the Northwest Quarter of the Southwest Quarter of Fractional Section 12, Township 27 South, Range 37 East, run North 1 degree 20 minutes 01 seconds West along the West line of said Fractional Section 12 a distance of 41.68 feet to the Northwest corner of the South 80.0 acres as described in Deed Book 416, Page 111 of the Brevard County, Florida, Public Records, said corner being 0.90 feet North of an iron pin at the Northwest corner of Seacoast Shores, Unit Five, Section 3 as recorded in Plat Book 16, Page 56, aforesaid Public Records; hence North 89 degrees 29 minutes 00 seconds East along the aforesaid North line of Deed Book 416, Page 111, a distance of 1492.94 feet to the Point of Beginning; run thence North 00 degrees 31 minutes 00 seconds West a distance of 515.30 feet to the Point of Curvature of a curve concave to the East having a radius of 50 feet and a central angle of 151 degrees 02 minutes 40 seconds; thence from a tangent bearing of North 76 degrees 02 minutes 20 seconds West run 131.81 feet along the arc of said curve to the Point of Tangency; thence from a tangent bearing North 75 degrees 00 minutes 20 seconds East run North 00 degrees 31 minutes 00 seconds West a distance of 72.03 feet to a point on the South right-of-way curve of a proposed 90 feet wide street; said curve being concave to the North having a radius of 509.99 feet and a central angle of 2 degrees 25 minutes 04 seconds; thence from a tangent bearing of South 88 degrees 07 minutes 20 seconds East run 21.52 feet along said curve to the Point of Tangency; thence continue along the aforesaid proposed South right-of-way North 89 degrees 27 minutes 36 seconds East a distance of 590 feet to a point South 39 degrees 27 minutes 36 seconds West a distance of 314 feet from the West right-of-way of State Road A1A; thence South 12 degrees 26 minutes 05 seconds East parallel with the said State Road right-of-way a distance of 698.95 feet to a point on the aforesaid North line of Deed Book 416, Page 111; thence South 89 degrees 29 minutes 00 seconds West a distance of 555.86 feet to the point of beginning.

Together with a non-exclusive, perpetual easement for access to the beach and the Atlantic Ocean, located along and over the northerly five (5) feet (running from the east right-of-way line of State Route A1A to the Atlantic Ocean and the beach) of the following described property, to wit:

From the point of intersection of the East right-of-way of State Road A-1-A and an easterly projection of the North line of the South 80.0 acres of Fractional Section 12, Township 27 South, Range 37 East

as described in Deed Book 416, Page 111, Brevard County, Florida Public Records (said line being parallel with and 0.90 feet North of the Easterly projection of the North line of Seacoast Shores, Unit Five, Section 3, as recorded in Plat Book 16, Page 56, aforesaid Public Records); run North 12 degrees 26 minutes 05 seconds West along the aforesaid right-of-way 499.12 feet to the Point of Beginning; run thence North 89 degrees 27 minutes 36 seconds East parallel with the Quarter Section line of aforesaid Fractional Section 12 a distance of 260 feet, more or less to the present bluff line of the Atlantic Ocean, return to the Point of Beginning and run thence North 12 degrees 26 minutes 05 seconds West along the aforesaid right-of-way 200.00 feet; thence North 89 degrees 27 minutes 56 seconds East parallel with the aforesaid Quarter Section line 260 feet more or less to the aforesaid present bluff line, thence Southerly along said line to close on the first call aforesaid.

All Exhibits attached to this Declaration are fully incorporated by reference.

ARTICLE I **DEFINITIONS**

A. The following words and phrases used in this Declaration and By-Laws shall have the following meaning ascribed to them:

(1) Articles. The Articles of Incorporation of the Association as filed with the Secretary of State, State of Florida. Said Articles are attached hereto as Exhibit "P", and by reference made a part hereof.

(2) Assessment. Those amounts levied by the Board against the Unit Owners pursuant to authority granted in the Florida Condominium Act, this Declaration and the By-Laws in order to enable it to adequately operate, maintain, repair, improve or reconstruct the Condominium Property or otherwise to further the aims of the Condominium. Assessments shall be a lien against each Unit when perfected as provided by law.

(3) Association. The Jamestown of Indian Harbor Beach Condominium Association, Inc., a Florida corporation not for profit, being the organization of all of the Unit Owners, which entity administers the Condominium Property. Association includes the term Board of Administration and corporation, and reference in the Articles to the term corporation includes Association.

(4) Board. The Board of Directors of the Association and individuals elected by the members of the Association to the Board of Directors, which Board shall have the right and responsibility to manage the business, operation and affairs of the Condominium Property. The Board shall initially be those individuals elected by Developer and later elected by the Unit Owners as provided herein.

(5) Building. Any multi-Unit structure or structures or complex thereof, a part of the Condominium Property and used, or intended for use, for residential purposes.

(6) By-Laws. The governing regulations of the Association as are adopted pursuant to Chapter 718 which are identical to the regulations of a non-profit corporation and the rules of the Unit Owners Association (as required by the provisions of Chapter 718). Said By-Laws are attached hereto as Exhibit "O", and by reference made apart hereof.

(7) Carport Units. Parking spaces in a carport building and the right to the exclusive use of such, available for purchase by Unit purchasers from Developer as determined by the applicable contract to purchase.

(8) Chapter 718. That portion of the Florida Statutes which pertains to condominium ownership.

(9) Common Charges. Those Assessments levied against the Unit Owners and payable by the Unit Owner in monthly installments in order to defray the Common Expense and established operating and capital replacement and improvement reserves.

(10) Common Elements. That part of the Condominium Property not included in a Unit as defined in Section A, Article V, Declaration.

(11) Common Expense. Includes:

(i) expenses of administration, management, operation, insurance, taxes, assessments, utilities, maintenance, repair or replacement of the Common Elements. Water and gas supplied to and trash or refuse collection services provided to all Units in the Condominium shall be a Common Expense. Each Unit is separately metered for electricity and each Unit Owner shall be responsible to pay his own electrical charges based on the meter charge to the individual Unit. Electricity, gas and other utility services furnished to or for the Carport Units and Common Elements shall be a Common Expense:

(ii) expenses declared Common Expenses by the Florida Condominium Act, by this Declaration or by the By-Laws;

(iii) expenses agreed upon as Common Expenses by the Board and lawfully assessed against the Unit Owners in accordance with this Declaration and the Bylaws; and

(iv) expenses of management and administration of the Condominium by the Board, including without limitation, compensation of all employees, managers, accountants, attorneys and other personnel hired by the Board whether as employees, independent contractors or otherwise.

(12) Common Surplus. The balance at the end of each fiscal year of all Common Charges and Assessments collected from Unit Owners remaining after the deduction of all Common Expenses for such period.

(13) Condominium. The Jamestown Condominium.

(14) Condominium Parcel. A Unit together with the undivided share in Common Elements which is appurtenant to the Unit.

(15) Condominium Property. As defined in Article II of the Declaration.

(16) Declaration. The instrument by which the Condominium Property of the Condominium is submitted to the provisions of Chapter 718, and any and all amendments thereto.

(17) Developer. Jamestown of Indian Harbor Beach Co., an Ohio corporation, its successors and assigns.

(18) Drawings. The plans and drawings filed in the Official Public Records of Brevard County, Florida, prepared and certified by Outlaw Engineering Associates, Inc., consulting engineers, in accordance with the requirements of Chapter 718.

(19) Land. The real estate described in this Declaration which has been submitted to the Condominium form of ownership pursuant to the provisions of Chapter 718.

(20) Limited Common Elements. Those Common Elements designated in the Declaration as reserved for use of a certain Unit or Units to the exclusion of the other Units, such areas being defined in Section, Article VI, Declaration.

(21) Rules. The rules and regulations governing the operation and use of the Condominium Property, or any portion thereof, as may be adopted by the Board from time to time.

(22) Unit or Units. Those parts of the Condominium Property described and defined in Section A, Article IV, Declaration, which are the subject of individual ownership, together with their respective undivided interest in Common Elements which is assigned thereto in this Declaration. Unless otherwise specified, the term "Unit" when used in this Declaration or in the Bylaws refers to, and includes, both the 144 residential Units and the 74 Carport Units as designated in the Drawings and as referred to in Article IV hereof.

(23) Unit Owner. The person or persons, natural or artificial, holding title to the fee simple estate to a Unit.

B. Unless the context clearly indicates otherwise or so requires, all other terms used in this Declaration and the Bylaws, shall be assumed to have the meaning attributed to said term by Chapter 718.

ARTICLE II
THE CONDOMINIUM PROPERTY, NAME AND PURPOSE

The "Condominium Property" includes the Land and all easements, rights and appurtenances belonging thereto, together with all 12 Buildings containing 144 Units, and 8 carport buildings containing 74 Carport Units, improvements and structures thereon (as more particularly delineated in Articles III, IV and V hereof), and all articles of personal property, which have been submitted to the provisions of Chapter 718.

The Condominium Property also includes an easement (located directly across State Route A1A) for access to the beach and Atlantic Ocean. The name by which the Condominium Property shall be known is hereby established to be "The Jamestown Condominium".

The purpose for which the Condominium Property is submitted to the provisions of Chapter 718 is to provide 144 separate Condominium Parcels and 74 Carport Units to which the fee simple title, together with their respective undivided interest in the Common Elements, may be conveyed for single family residential living.

ARTICLE III
GENERAL DESCRIPTION OF BUILDINGS

The Buildings of the Condominium include 12 residential structures containing, in total, the living areas of 144 Units which are part of the Condominium Property. Buildings are numbered 1 through 12 and each Building contains 12 Units. Each Building is stucco brick constructed on its exposed exteriors. All residential Buildings are two stories in height above ground.

Units contained in Buildings No. 1, 2, 5, 6, 11 and 12 are garden-type structures, each Building containing the living space for 12 one or two bedroom Units. Each of these Buildings has three entrances limited in use to the Units which they service. Hallways, stairs and common entrances in each Building are Limited Common Elements, as disclosed in Exhibit "B" – "M" reserved for use by the Units to which they extend to the exclusion of other Units. Balconies serve Units located on the second floor of the garden-type Buildings, such balconies together with stairs therefrom being shared as Limited Common Elements by two Units each.

Units contained in Buildings No. 3, 4, 7, 8, 9 and 10 are townhouse-type structures, each Building containing the living space for 12 one, two or three bedroom Units. Each of these Buildings has 6 walkways and stoops (leading to separate front-door entrances for each Unit) limited in use to the Units which such walkways and stoops service. One continuous fire escape is located to the rear of each Building, with a single stairway therefrom to ground level, serving each of the Units of each Building as Limited Common Elements.

ARTICLE IV
UNIT DESCRIPTIONS, DESIGNATIONS AND BOUNDARIES

A. Definition of Unit. A Unit consists of: (i) the space bounded by the interior surfaces of the perimeter walls, windows and doors, the cement floor slab or flooring, as the case may be, and the roof of such Unit, projected, if necessary, by reason of structural divisions such as interior walls, floors, ceilings and other partitions, as may be necessary to form a complete enclosure of space with respect to such Unit; (ii) together with all interior walls and ceilings (excluding the structural components thereof and their surfaces (including drywall and plaster) and the decorated

surfaces thereof, including paint, lacquer, varnish, wallpaper, paneling, tile, and any other finishing material applied to interior walls, doors, floors and ceilings and interior surfaces of perimeter walls, windows, doors, floors and ceilings; (iii) all doors (exterior or interior) and floors, excluding the structural components thereof; (iv) all windows, screens and window frames and woodwork; (v) all ducts, plumbing and electrical systems, and all fixtures, equipment, and appurtenances, including heating and air-conditioning systems and control devices, located within the bounds of such Unit or which serve only such Unit; (vi) all gas, electric, water or other utility or service lines, pipes, wires and conduits located within the bounds of such Unit or which serve only such Unit; (vii) cement floor slabs or floorings, as the case may be; and (viii) if applicable, a Carport Unit.

The interior partitions or walls within the confines or boundary lines of each Unit are approximately placed in the Drawings. These interior partitions or walls may, from time to time, be removed or replaced subject to the prior written approval as provided in Section 1, Article VII hereof; in the event a Unit Owner does not remove or replace any or all interior partitions or walls, no amendment of this Declaration will be necessary or required.

A Unit may include as part of the Limited Common Elements, a carport unit as detailed in Exhibit "A" as such Limited Common Elements are defined in Article VI(c). Parking spaces in the carport building and the right to the exclusive use of such is available for purchase by Unit purchasers from Developer as determined by the applicable contract to purchase. If a Unit Owner purchases a Carport Unit, such includes the exclusive right to use a carport space in the carport building. In addition, each Carport purchaser shall be entitled to the exclusive use of a storage bin located in the proximate area of the Carport Unit so purchased.

B. Number of Units and Designation. There are 144 residential Units located in 12 buildings. The graphical designation of each Unit, its location, building plans and floor plans are detailed in the set of Drawings contained in Exhibits "A" – "M", all of such Drawings are in accordance with and pursuant to the requirements of §718.104(4)(e), Florida Statutes. The Common Elements or immediate Limited Common Elements appurtenant to each Unit are set forth in Articles V and VI hereof and indicated upon the Drawings attached thereto.

C. Unit Designation. Units are designated by individual numbers (1 through 144) assigned to each Unit. No Unit bears the same designation as any other Unit. The identifying number of a Unit is also the identification as to the Condominium Parcel.

D. Table of Designations. The table annexed hereto as Exhibit "N" sets forth for each Unit its designation, the percentage of interest in the Common Elements appurtenant to such Unit, and the total number of rooms in each Unit.

ARTICLE V

COMMON AREAS AND FACILITIES

A. Definition. The Common Elements include the Land and all other parts of the Condominium property except the Unit, as detailed in the Drawing designated on Exhibit "A".

B. Percentage of Interest. The percentage of interest in the Common Elements of a Unit shall be as set forth in the Table (Exhibit "N") made a part of Section D, Article IV, Declaration as determined by Developer in accordance with the provisions of §718.104, Florida Statutes.

C. Use of Common Elements by Unit Owners. Each Unit Owner, his family, guests and invitees have the right to use the Common Elements in accordance with the purposes for which they are intended and for all purposes incident to the use and occupancy of his Unit. No person shall use the Common Elements or any part thereof in such manner as to hinder or encroach upon the lawful rights of other Unit Owners as established by law or in the Declaration, By-Laws or any Rules.

D. Rules of Board Relating to Common Elements. The Board has the authority to promulgate reasonable Rules for the use, maintenance, repair, replacement or improvement of any of the Common and Limited Common Elements, including authority to: (i) make reservations of portions thereof for the exclusive use of the Unit Owners and their guests, or certain of them, from time to time, and to make reasonable charges for such exclusive use, provided such exclusive use for any number of Unit Owners shall not exceed two days, including not more than one weekend day, or holiday, during any single week; (ii) limit the number of guests that may use the Common Elements; (iii) charge reasonable admission and other fees for the use of any recreational facilities situated on the Common Elements; and (iv) suspend the voting rights and right to use the recreational facilities by any Unit Owner for any period during which any Assessment against his Unit remains unpaid or for a period not to exceed 30 days for any infraction of the published Rules, the Declaration or the By-Laws.

ARTICLE VI

LIMITED COMMON ELEMENTS

A. Definition. The Limited Common Elements with respect to each Unit consist of:

(i) all conduits, plumbing, wires and other facilities for the furnishing of utility services whether located within a Unit or otherwise which service part or parts of the Condominium Property other than a single Unit;

(ii) hot water heaters serving more than a single Unit;

(iii) balconies, walkways, common hallways, stairs and entrances, patios, stoops, courtyards, wood walls and fences (surrounding the patios to Units), garbage receptacle areas, landscaping located on or in any balcony or patio area appurtenant to a Unit, and other appurtenant improvements, which serve only such Unit; and

(iv) all other Common Elements (as may be located within the bounds of such Unit or which serve only such Unit), as are rationally of limited use for less than all Units.

B. Use of Limited Common Elements. Each Unit Owner is hereby granted an irrevocable easement to use and occupy the Limited Common Elements located within the bounds of his Unit or which serve only his Unit.

C. Carport Parking Spaces. Each carport parking space as shown on Exhibit "A" is a Limited Common Element. The unit owner who is designated to have the exclusive use of a carport

parking space may thereafter sell and assign the exclusive use of same not only to the purchaser of his unit but may sell, convey and assign the exclusive use of same to the unit owner of another unit in this condominium, subject to the terms hereof. Such designation shall be made in an instrument of conveyance by the Developer having the same formality as a deed which shall be recorded in the Public Records of Brevard County, Florida. The Unit Owners who have the right to the use of carport parking spaces on this condominium shall be responsible for the maintenance, care and preservation of said carport structures, excluding therefrom the paving which shall be deemed to be a part of the Common Expenses of the condominium.

ARTICLE VII
MAINTENANCE, ALTERATIONS, REPAIRS,
IMPROVEMENTS AND MANAGEMENT

Responsibility for the maintenance and management of Condominium Property, and restrictions upon the alteration and use thereof, shall be as stated in this Article.

A. Units. Each Unit Owner shall maintain (in good order and condition), repair and replace, at the Unit Owner's expense, all portions of the Unit, including but not limited to, doors (exterior and interior), windows (glass and screens), plumbing fixtures (drains and pipes thereto), utility services (lines, pipes, wires and conduits), water heaters, heating and air conditioning equipment and ducts, lighting fixtures, electrical outlets, wiring and fixtures, refrigerators, freezers, dishwashers, clothes washers, clothes dryers, disposals, ranges and/or other equipment, appliances, fixtures or systems which are used exclusively in connection with the individual Unit (including those items located remotely from the individual Unit).

Each Unit Owner shall promptly furnish, perform and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own Unit which, if omitted, would adversely affect the safety of the Condominium Property, provided however, such maintenance, repairs and replacements as may be required to bring water, electricity and gas to such Unit shall be furnished as part of the Common Expense.

No Unit Owner shall make any structural addition, structural partition or wall change or structural alteration or improvement in or to his Unit without prior written consent of the Board and, if required in the mortgage documents, the mortgagee of said Unit. The Board shall have the obligation to answer any written request by a Unit owner for approval of a proposed structural addition, alteration or improvement in such Unit Owner's Unit within 60-days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board to the proposed structural addition, alteration or improvement. The Board has the authority to delegate its responsibilities hereunder to the President or to a committee of Unit Owners formed for such purpose.

B. Common Areas and Facilities.

(1) The Association shall maintain, operate, repair and replace as a Common Expense all portions of the Common Elements, excluding the Limited Common Elements except as provided in Section C below. All incidental damage caused to a Unit by reason of the aforementioned work shall be promptly repaired at the expense of the Association.

(2) Except in the case of an emergency, whenever in the judgment of the Board the Common Element require additions, alterations or improvements costing in excess of \$25,000, the making of such additions, alterations or improvements shall be approved by a majority of the Unit Owners, and if approved, the Board shall proceed with such additions, alterations or improvements and assess all Unit Owners for the cost thereof as a Common Expense. Any additions, alterations, or improvements costing less than \$25,000 may be made by the Board without approval of the Unit Owners and the cost thereof shall constitute part of the Common Expenses. Notwithstanding the foregoing, if in the opinion of not less than 80% of the members of the Board, such additions, alterations or improvements are exclusively or substantially exclusively for the benefit of the Unit Owner or Unit Owners requesting the same, such requesting Unit Owner or Unit owners shall be assessed therefor in such proportion as they jointly approve, or if they are unable to agree thereon, in such proportions as may be determined by the Board.

(This limitation shall not apply to maintenance or repair of existing facilities, property and equipment.)

(3) Each Unit Owner shall observe and perform all obligations of a Unit Owner set forth in the Declaration, Bylaws, or Rules with respect to the maintenance, operation or use of Common Elements.

C. Limited Common Areas and Facilities.

(1) By the Association. The Association shall maintain, repair and replace as a Common Expense:

- (a) conduits, plumbing, wiring and other facilities for the furnishing of utility services which are contained within a Unit that service part or parts of the Condominium Property in addition to the Unit within which they are contained;
- (b) balconies and the stairs thereof;
- (c) all wood fences;
- (d) all walkways, steps, stairs, hallways and stoops common to more than a single Unit;
- (e) landscaping (except within the patio and balcony areas); and
- (f) structural maintenance and repairs to carport buildings.

(2) By Unit owners. Unit Owners shall maintain, repair and replace at the Unit Owner's expense all portions of the Limited Common Elements designated for his exclusive use except the portion to be maintained by the Association.

Buildings with townhouse-type Units have hot water heaters which will be used in common by the Unit owners owning Units in such Buildings. Unit owners in these Buildings will be assessed a separate monthly amount (collected in addition to the monthly Common Expense applicable to

such Units) in order to defray the costs of repair and maintenance of applicable hot water heaters as well as an amount to pay for the costs of use thereof.

D. Report of Damage. Each Unit owner shall promptly report to the Association any defect or need for repair for which the Association is responsible.

E. Management. The Board has the responsibility properly to manage the Condominium Property. The Board may retain and employ for the Condominium a professional managing agent to perform such duties and services as the Board shall authorize. Such delegation to a managing agent may be evidenced by a management contract, the terms of which shall not exceed three years in duration. Such contract shall provide for the payment of reasonable compensation to the managing agent as a Common Expense Without intending to limit the generality of the foregoing, such agreements may provide for the allocation of expenses, purchase of equipment and supplies, and joint sharing of employees and management overhead.

ARTICLE VIII

USE OF CONDOMINIUM PROPERTY AND RESTRICTIONS THEREON

A. Proper Use of Condominium Property. Each residential Unit shall be occupied and used for private residential purposes exclusively, except such temporary non-residential uses as may be permitted by the Board from time to time.

B. Restrictions. The following restrictions and covenants as to use and occupancy of the Condominium Property run with the land and are binding upon each Unit Owner, his family, guests or occupant of a Unit.

(1) Without having first obtained the written consent of the Board or as provided in the Declaration, Bylaws or Rules, there shall be no obstruction of the Common Elements (including, but not limited to, sidewalks, entrances, passages, stairways, fire escapes and fire exits, corridors, or hallways); storage in or on the Common Elements; use of the Common Elements utility services except for existing lighting in Carport Units; building, planting or construction over or under Common Elements; placing or dumping of trash, garbage, refuse, debris or excess materials of any kind on or about Common Elements except in receptacles specifically designated therefor; painting, decorating or otherwise changing the appearance of any portion of the exterior of any Building.

(2) Nothing shall be done or kept in any Unit or the Common Elements which will increase the rate of insurance of any Building or the contents thereof beyond the rates applicable for residential Units, without prior written consent of the Board. No Unit owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on any Building or the contents thereof, or which will be in violation of any law.

(3) No sign, advertisement, notice or other lettering shall be exhibited, displayed, inscribed, painted or affixed, in, on or upon any part of the Unit or Condominium Property by any Unit Owner or occupant without written permission of the Board. The foregoing

includes signs within a Unit which are visible from outside the Unit and posters, advertisements or circulars used upon the Condominium Property, Units or vehicles parked upon the Condominium Property, and distributing advertisements or circulars to Units within the Condominium. No awning, canopy, shutter, radio or TV antenna, or other projection shall be affixed to or placed upon the exterior walls, doors or roof of any Building without the prior written permission of the Board. No clothes (or clothes lines), sheets, blankets, laundry of any kind, or any other articles shall be hung or exposed on any part of the Unit or the Common Elements.

(4) The maintenance, keeping, breeding, boarding and/or raising of animals, livestock, or poultry of any kind, regardless of number, shall be prohibited within any Unit or upon any Common Elements, except that this shall not prohibit the keeping of a domestic pet, provided that it is not kept or maintained for commercial purposes or for breeding. Pets shall not be permitted upon the Common Elements of the Condominium unless accompanied by an adult and unless they are carried or on leash. Any member who keeps or maintains any pet upon any portion of the Condominium shall indemnify and hold harmless the Association, each of its members free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Condominium. The Board shall have the right to order any person whose pet is a nuisance, to remove such pet from the premises, and/or to charge such person for any extraordinary costs of maintaining the Common Elements caused by the presence of the pet. The payment and collection of this charge shall be in accordance with the terms providing for payment and collection of Assessments in the Bylaws.

(5) No Unit Owner shall make or permit any disturbing noises by himself, his family, servants, employees, agents, visitors, and lessees, nor do or permit anything by such persons that will interfere with the rights, comforts or convenience of the Unit Owners. No Unit Owner shall play upon or suffer to be played upon any musical instrument, or operate or suffer to be operated, a phonograph, television, radio or sound amplifier in his Unit, in such manner as to disturb or annoy other occupants of the Condominium. No Unit Owner shall conduct or permit to be conducted, vocal or instrumental instruction at any time.

(6) Nothing shall be done to any Unit or on or in the Common Elements which will impair the structural integrity of any Building or which will structurally change the Building.

(7) The Board may retain a pass-key to all Units. No Unit owner or occupant shall alter any lock or install a new lock, without the written consent of the Board. Where such consent is given, the Unit Owner shall provide the Board with an additional key for the use of the Association and the Board, pursuant to its right of access.

(8) No industry, trade, business, occupation or profession of any kind may be conducted, maintained or permitted on any part of the Condominium Property.

(9) All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction over the Condominium Property shall be observed.

(10) Draperies, blinds or curtains showing solid white colors or linings to the exterior must be installed by the Unit Owner on all windows of each Unit and must be maintained in said windows at all times.

(11) The Common Elements comprising the recreational facilities may be used for general recreational purposes by Unit Owners, their families, tenants and their guests. All person~ using said facilities will abide by the Rules as established from time to time by the Board.

(12) No Unit shall be either rented for transient or hotel purposes or without the prior written approval of the Board for any period less than one month. Any Unit Owner who leases a Unit shall, promptly following the execution of any such lease, forward a conformed copy thereof to the Board. Any such lease shall contain a provision to the effect that the rights of the tenant to use and occupancy of the Unit shall be subject and subordinate in all respects to the provisions of the Declaration and these Bylaws and to such Rules relating to the use of the Common Elements, or other "House Rules", as the Board may from time to time promulgate. In lieu of forwarding a conformed copy of the lease to the Board as hereinabove provided, any Unit Owner who leases his Unit may certify that such lease contains the provisions described in this paragraph. Any Unit Owner of any Unit who shall lease his Unit in violation of this Subsection shall forfeit his right to the use of the recreational facilities in the condominium until the violation is cured.

(13) No boats, trailers, trucks, motorcycles, recreational vehicles, commercial trucks or vans, except delivery trucks in the course of making deliveries or temporarily servicing the Condominium Property, shall be permitted to park or be stored on any portion of the Condominium Property except as expressly authorized in writing by the Board. No automobile or other motor vehicle, including but not limited to motorbikes and motorcycles, shall be parked on or about the Common Elements unless it has both a current vehicle license tag displayed and, if applicable, the appropriate inspection certificate or sticker displayed, all conforming to the laws of the State in which the vehicle is registered. No motor vehicle shall be repaired or disassembled on the Common Elements without the prior written consent of the Board.

(14) Bedrooms located on the second floor of all three-bedroom townhouse-type Units which extend over another Unit located on the lower level must be and remain fully padded and carpeted; except for lower-level Units, all garden-type Units must be and remain fully padded and carpeted throughout with the exception of kitchens and bathrooms.

ARTICLE IX

UNIT OWNERS' ASSOCIATION

A. Formation. Developer initially formed, for the purpose of administering the Condominium Property, a non-profit Florida corporation to be called "The Jamestown of Indian Harbor Beach Homeowners' Association, Inc." Subsequently, the Association changed the corporate name to "Jamestown of Indian Harbor Beach Condominium Association, Inc.," which corporation consists of an organization of all of the Unit Owners of Units in the Condominium Property. Each Unit Owner upon acquisition of title to a Unit automatically becomes a member of the Association; such membership terminates upon the sale or other disposition by such Unit Owner

of his Unit, at which time the new owner of such Unit shall automatically become a member of the Association.

B. Voting Rights. One vote may be cast with respect to each residential Unit on each matter properly submitted to the members for vote. All quorums and percentages of votes required by an Association meeting shall be based upon a residential Unit basis and not upon any percentage of interest in the Common Elements. A true copy of the Bylaws of the Association is attached hereto as Exhibit "O".

C. Service of Process. The Board of Directors shall have the authority to designate, from time to time in its sole discretion, an appropriate registered agent for service of process on the Association.

ARTICLE X
COMMON EXPENSES & ASSESSMENTS

A. Determination by Board. As provided elsewhere herein, the Board shall determine all matters relating to administration, maintenance, repair and replacement of the Common Areas and Facilities and also all matters relating to the common Expenses.

B. Common Charges.

(1) Each Unit Owner shall pay to the Board a monthly sum (here and elsewhere sometimes referred to as "Common Charges") equal to one-twelfth of the Unit Owner's proportionate share of the sum required or established by the Board to meet the annual Common Expenses and, if imposed by the Board, to establish the operating and/or capital improvement or replacement reserves.

(2) The Board shall determine the amount of the Common Charges annually, but may do so at more frequent intervals should circumstances so require.

(3) The Board shall make reasonable efforts to estimate and establish the amount of the Common Charges payable by each Unit Owner for each assessment period as provided in Section G of this Article and shall at that time, prepare a list of the Unit Owners and Common Charges applicable to the Units which shall be kept in the office of the Board and shall be open to inspection by any Unit Owner upon reasonable notice to the Board. Written notice of the Common Charges shall be sent to each Unit Owner with the annual budget. The omission of the Board before the expiration of any assessment period to establish Common Charges for the next assessment period shall not be deemed a waiver or modification of the provisions of this Section, or a release of any Unit Owner from the obligation to pay the Common Charges or any installment thereof for that or any subsequent assessment period. The Common Charges fixed for the preceding period shall continue in full force and effect until the new Common Charges are established. No Unit Owner may gain exemption from liability for the Common Charges or any Special Assessments by a waiver of the use or enjoyment of any of the Common Elements or by abandonment of any Condominium Unit.

C. Special Assessments. In addition to the Common Charges authorized above, the Board may levy in any year a Special Assessment or Assessments, applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, improvement, unexpected repair or replacement of any capital improvement located on or in the Condominium Property, including the necessary fixtures and personal property related thereto, or for such other purposes as the Board may consider necessary or appropriate.

D. Additional Assessments. In the event that the Board decides that additional monies (referred to as the "Additional Assessments") are required in addition to Common Charges and/or Special Assessments levied in any one year, the Board shall give the Unit Owners at least 10-days written notice of the total monies required, allocating said amounts among the Unit Owners, together with the time for payment of said proportionate amounts which may be at one time or in installments, as the Board decides. Provided, however, that if Unit Owners representing 40% of the votes of the Association object in writing to the additional assessments within 15-days after mailing of such notice, the Board shall call a special meeting of the Unit Owners for the purpose of obtaining approval of the Additional Assessments, at which meeting the additional assessments of the Board to be approved must receive a vote of 60% of the number of votes represented and entitled to vote at such meeting.

E. Reserve for Replacements. The Board may establish and maintain a reserve fund for the repair, restoration or replacement of capital improvements by the allocation and payment monthly to such reserve fund of any portion of the Common Charges or Special Assessments designated from time to time by the Board. Such reserve funds shall be deposited in a special account with a lending institution, the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Board be invested in obligations of, or obligations fully guaranteed as to principal by, the United States of America. The reserve for replacements may be expended only for the purpose of effecting the repair, restoration, replacement or improvement of the Common Elements together with fixtures or equipment associated therewith or for contingencies of a non-recurring nature. The amounts allocated to the replacement reserve may be reduced or eliminated pursuant to the requirements of Chapter 718.112, *Florida Statute*, as may be amended or renumbered from time to time. The proportionate interest of any Unit Owner in any replacement reserve shall be considered an appurtenance of his Unit and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Unit to which it appertains and shall be deemed to be transferred with such Unit.

F. Initial Assessment. The Board shall determine the budget as defined in this Section. Assessments shall be levied against the Unit Owners during said period as provided in this Article. The Board will levy against the purchaser at the time he settles on his purchase contract, an Assessment in an amount equal to one monthly annual assessment payment plus part of one monthly annual assessment payment, prorated from the date of settlement to the end of the calendar month in which the settlement occurs.

G. Common Expense Benefiting Less Than All Units. Any Common Expenses benefiting less than all of the Units or caused by the conduct of all those entitled to occupy the same or by their licensees or invitees shall be specially assessed against the Unit or Units involved, in accordance with such reasonable provisions as may be made by the Board for such cases.

H. Effect of Nonpayment of Common Expenses; Remedies of the Association.

(1) Any Common Charge or Assessment levied pursuant to the Declaration or these Bylaws, or any installment thereof, which is not paid on the date when due shall be delinquent and shall, together with interest thereon and the cost of collection thereof, as hereinafter provided, thereupon become a lien upon the Condominium Unit belonging to the Unit Owner against whom such assessment is levied and shall bind such Condominium Unit in the hands of the then Owner, his heir, devisees, personal representatives, successors and assigns. The lien may be perfected as provided by law. The personal liability and responsibility of the Unit Owner to pay such Common Charge or Assessment shall, however, remain his personal legal obligation, and the Board may maintain actions at law to recover sums due, or for damages associated therewith, or in equity for injunctive or such other relief as is available.

(2) Any Common Charge or Assessment levied pursuant to the Declaration or these Bylaws, or any installment thereof, which is not paid within 10-days after it is due shall bear interest from the date due at a rate fixed by the Board but in no event more than the maximum permitted legal rate, and the Board may bring an action at law against the Unit Owner personally obligated to pay the same, and/or foreclose the lien against the Unit then belonging to said Unit Owner, in either of which events interest, costs and reasonable attorney's fees, to the extent permitted by law, shall be added to the amount of each Common Charge or Assessment. In the event that a Unit Owner is delinquent in the payment of any Common Charge or Special Assessment the Unit Owner and any member of his or her family or other persons using the Unit may be prohibited from using the Condominium recreational facilities pursuant to Section 718.303, *Florida Statute*, as may be renumbered or amended from time to time.

(3) The Common Charges or Assessments shall be levied against each unit on an annual basis at the beginning of each year and shall be payable in monthly installments. If any Unit Owner shall be in default in the payment of an installment of the Common Charges or Assessments, the Board may accelerate the remaining installments upon written notice to the Unit Owner, and the then unpaid balance of the Common Charges or Assessments for the current year shall come due upon the date stated in the notice. but not less than 5 days after delivery of the notice to the Unit Owner, or 10 days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

I. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any existing first mortgage on such applicable Unit at the time the lien is perfected. Sale or transfer of any Unit (except to a mortgagee) shall not affect the assessment lien.

J. Preparation and Approval of Budget. Each year on or before the first day of the fiscal year, the Board shall adopt a budget for the Condominium containing an estimate of the total amount which it considers necessary to pay the cost of utility services, maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units as to which the Board has all powers and responsibility with regard to maintenance, repair, renovation, restoration and replacement, and the cost of wages, materials, insurance premiums, services,

supplies and other expenses that may be declared to be Common Expenses by Chapter 718, these By-Laws, the Declaration, or a resolution of the Association, and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Condominium and the rendering to the Unit Owners of all related services. Along with the notice of meeting at which the proposed budget will be considered by the Board, the Board shall send to each Unit Owner a copy of the budget, in a reasonable itemized form which sets forth the amount of the Common Expenses payable by each Unit Owner. The said budget shall constitute the basis for determining each Unit Owner's contribution for the Common Expenses of the Condominium.

K. Books and Records of Association. The Board shall keep correct and complete books and records of account and the same shall be open for inspection by any Unit Owner or any representative of a Unit Owner duly authorized in writing at reasonable times and upon written request by Unit Owner pursuant to Section 718.111, *Florida Statute*, as may be renumbered or amended from time to time. All books and records of the Association shall be audited at least once a year by an independent auditor.

L. Division of Common Surplus and Common Expenses. The Common Surplus of the Condominium Property shall be allocated among, and the Common Expenses shall be assessed against, the Unit Owners by the Association according to the percentages of interest in the Common Elements of the respective Units. The Common Surplus shall not be distributed to the Unit Owners by the Association without the prior approval of the Board of Directors. Every Unit Owner shall pay his proportionate share of Assessments levied against him, and no Unit Owner shall exempt himself from liability for such Assessments by waiver or the use or enjoyment of the Common Elements or by the abandonment of his Unit.

M. Lien of Association. The Association shall have a lien upon each Condominium Parcel for any unpaid Assessments with interest and reasonable attorneys fees incurred incident to the collection of the Assessments or the enforcement of the lien. In addition, each Unit Owner shall be personally liable for all Assessments chargeable against such Unit during the period he has an ownership interest therein, and any Assessment not paid within ten days after the same shall become due and payable shall bear interest at the rate established by the Board, within the maximum rates allowed by law, until such time as the same is paid in full.

N. Liability for Assessments Upon Voluntary Conveyance. Upon transfer of a Unit, or any interest thereof, the grantee (except a mortgagee as provided in Section P below) of the Unit or any interest therein becomes jointly and severally liable with the grantor for all unpaid Assessments levied by the Association against such Unit Owner prior to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, such prospective grantee shall, upon written request, be entitled to a statement from the Board setting forth the amount of all unpaid Assessments due the Association with respect to the Unit to be conveyed, and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid Assessments which became due prior to the date of the making of such request if the same were not set forth in such statement.

O. Mortgagee Liability for Assessments. Except as provided by controlling law, any first mortgagee which obtains title to a Unit pursuant to the remedies provided in the mortgage or

deed of trust or through foreclosure of such mortgage or deed (assignment) in lieu of foreclosure, shall take the Unit subject to the liability for unpaid Assessments or Common Charges against the mortgaged Unit which accrue prior to the acquisition of title to such Unit by the mortgagee, pursuant to the limitation provided in Section 718.116, *Florida Statute*, as may be renumbered or amended from time to time.

ARTICLE XI **EASEMENTS**

The following easements, rights and licenses are applicable to the Condominium Property:

A. **Encroachments**. If (a) any portion of the Common or Limited Common Elements encroaches upon any Unit; (b) any Unit encroaches upon any other Unit or upon any portion of the Common or Limited Common Elements; or (c) any encroachment shall hereafter occur as a result of (i) construction of a Building; (ii) settling or shifting of a Building; (iii) any alteration or repair to the Common or Limited Common Elements made by or with the consent of the Board or made by a Unit Owner in accordance with this Declaration or the Bylaws; (iv) any repair or restoration of a Building (or any portion thereof), any Unit, or Common or Limited Common Elements after damage by fire or other casualty or anything by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common or Limited Elements, then, in any such event, a valid easement exists for such encroachment and for the maintenance of the same so long as the Building or Unit shall stand.

B. **Support**. Each Unit has an easement of support and of necessity and is subject to an easement of support and necessity in favor of all other Units and the Common or Limited Common Elements.

C. **Utilities**. There is hereby granted a blanket easement in favor of the Association, upon, across, over and under all of the Condominium Property for ingress, egress, installation, replacing, repairing, and maintaining any pipes, wires, ducts, conduits, master television antenna system, cable television system, public utility lines or structural components through the walls of the Units. No sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Condominium Property except as initially programmed and approved by the Developer or hereafter approved by the Board. Should any utility company furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Association by its Board has the right to grant such easement on said property without conflicting with the terms hereof. The easements provided for in this Article shall in no way affect any other recorded easement on the Condominium Property.

D. **Ingress and Egress**. Every Unit owner and his invitees has a right of reasonable ingress and egress to his Unit over and through the Common Elements. Each Unit and Unit Owner has an easement over present roads (whether Common Elements or not) for direct exit to State Road A1A or Palm Springs Boulevard, public highways.

E. **Pipes, Wires and Other Common Elements Inside of Units**. Each Unit has an easement in common with all other Units to use, maintain, repair, alter and replace all pipes, wires,

ducts, vents, cables, conduits, public utility lines and all other Common or Limited Common Elements located in any of the other Units or elsewhere on the Condominium Property and serving such Unit. Each Unit shall be subject to an easement in favor of all Units to use, maintain, repair, alter and replace the pipes, wires, ducts, vents, cables, conduits, public utility lines and all other Common or Limited Common Elements located in such Unit or elsewhere on the Condominium Property and serving other Units. The Board has a right of access to each Unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the Common or Limited Common Elements contained therein or elsewhere in the Condominium Property; provided such right of access may be exercised only during reasonable hours with the prior consent of the Unit owner affected by the exercise of such easement.

F. Other. There is hereby granted a blanket easement to the Association, and to any appropriate political subdivision and its lawful agents, to enter upon the Condominium Property or any part thereof (including Units) for the purpose of maintaining the safety, health, and welfare of all persons using the same and for repair and maintenance of the Elements. Except in the event of emergencies, the rights accompanying the easements provided for in this subsection shall be exercised only during reasonable hours with prior notice to the Unit Owner affected by the exercise of such easement. Without limiting the generality of the foregoing, said easements shall include the ingress and egress for police and fire protection, public and school bus service, and trash and refuse collection.

ARTICLE XII **COMPLIANCE AND LIABILITY FOR NEGLIGENCE**

Each Unit Owner shall be governed by and comply with the terms of the Declaration, Articles, the Bylaws, and any Rules adopted by the Association, and all of such documents, as they may be amended from time to time. Each Unit Owner is liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees. In the event the estimated damages do not exceed the deductible on the policy that may provide coverage for said damages, the negligent Unit Owner will be responsible and liable for the total amount of such damages. In the event the damages exceed the applicable policy deductible, the negligent Unit Owner shall be liable for payment of the policy deductible as well as any damage amounts over and above the payout proceeds resulting from any insurance claim filed by the Association.

If any Unit Owner fails to maintain or repair any part of his Unit or the Limited Common Elements required to be maintained and repaired by such Unit Owner, or if a Unit Owner becomes liable for maintenance, repair or replacement due to negligent conduct as provided in the foregoing paragraph, and if such maintenance or repair is necessary, in the sole discretion of the Board, to protect the Common Elements, or any other portion of the Condominium Property, and such failure of the Unit Owner to maintain or repair continues for a reasonable time after written notice of the necessity of such maintenance or repair has been delivered by the Board to the Unit Owner, the Board may levy a special assessment against such Unit Owner for the cost of said maintenance or repair and cause such repairs or maintenance to be made. Such special assessment shall be subject to the lien provisions of Section N, Article X, Declaration.

ARTICLE XIII
AMENDMENT OF DECLARATION

A. An amendment to this Declaration may be adopted at a meeting of the Unit Owners, held for such purpose, by the affirmative vote of the Unit Owners exercising not less than 51% of the total voting interests of all Unit owners, or without a meeting by a writing signed by at least 85% of all of the voting interests of all Unit Owners.

B. A certificate setting forth any amendment to the Declaration by the Unit Owners and the manner of its adoption shall be executed by the president or a vice president and by the secretary or an assistant secretary of the Association in the manner provided for the execution of deeds. Such certificate shall be filed as provided by Florida law, and such amendment shall be effective as an amendment to the Declaration or By-Laws, or both, as the case may be, as of the time it is recorded,

ARTICLE XIV
MORTGAGES

A. Notice to Board. A Unit owner who mortgages his Unit shall notify the Board of the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the Board.

B. Notice of Unpaid Assessments for Common Expenses. The Board, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid Assessments for Common Expenses due from, or any other default by, the Unit Owner of the mortgaged Unit.

C. Right to Examine Books and Records. First mortgagees or holders of notes secured by first mortgages encumbering any Unit in the Condominium shall have the right to examine the books and records of the Association or the Condominium during regular and normal business hours after reasonable notice.

D. Approval by Mortgagees. Unless at least 66-2/3 of the first mortgagees (based upon one vote for each first Unit mortgage owned) of Units have given their prior written approval, the Association shall not be entitled to:

- (1) By act or omission, seek to abandon or terminate the Condominium;
- (2) Change the pro rata interest or obligations of any Unit for purposes of (i) levying Assessments or Common Charges or allocating distributions of hazard insurance proceeds or condemnation awards or (ii) determining the pro rata share of ownership of each Unit in Common Elements;
- (3) Partition or subdivide any Unit;
- (4) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. (The granting of easements for public purposes consistent with the

intended use of the Common Elements by the Condominium shall not be deemed a transfer within the meaning of this clause);

(5) Use hazard insurance proceeds for losses to any Condominium Property (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of such Condominium Property, except as provided by statute in case of substantial loss to the Units and/or Common Elements of the Condominium.

E. Partition or Subdivisions of Units. No Unit may be partitioned or subdivided or otherwise modified unless the record owner so affected shall have approved the amendment as provided for in Florida Statute 718.110.

F. Annual Audited Financial Statements and Notice of all Meetings. First mortgagees or holders of note secured by first mortgages encumbering any Unit shall be entitled, upon request, to receive an annual audited financial statement of the Condominium within 90-days following the end of any fiscal year of the Association and to receive written notice of all meetings of the Association and, further, shall be permitted to designate a representative to attend all such meetings.

G. Substantial Damage to or Destruction of any Unit or any Part of the Common Elements. In the event of substantial damage to or destruction of any Unit or any part of the Common Elements, the institutional holder of any first mortgage encumbering a Unit will be entitled to timely written notice of any such damage or destruction.

H. Condemnation or Eminent Domain Proceedings. If any Unit, or portion thereof, or the Common Elements, or any portion thereof, is made the subject matter of any condemnation or eminent domain proceedings, or is otherwise sought to be acquired by the condemning authority, then the institutional holder of any first mortgage lien encumbering a Unit will be entitled to timely written notice from the Board of any such proceedings or proposed acquisition.

ARTICLE XV

PROVISIONS RELATING TO SALE OR RENTAL OR OTHER ALIENATION OR MORTGAGING OF CONDOMINIUM UNITS

A. Sale or Rental of Units - Association to Have First Right of Refusal. In the event any Unit Owner wishes to sell, rent or lease his Unit, the Association, shall have the option to purchase, rent or lease said Unit, upon the same conditions as are offered by the Unit Owner to a third person. Any attempt to sell, rent or lease said Unit without prior offer to the Association shall be deemed a breach of this Declaration and shall be wholly null and void, and shall confer no title or interest whatsoever upon the intended purchaser, tenant or lessee.

Should a Unit Owner wish to sell, lease or rent his Condominium Parcel, he shall, before accepting any offer to purchase, sell or lease, or rent, his Condominium Parcel, deliver to the Board or such committee designated by the Board a written notice containing the terms of the offer he has received or which he wishes to accept, the name and address of the person(s) to whom the proposed sale, lease or transfer is to be made, two bank references and three individual references, local, if possible, and a completed application form, and such other information (to be requested within five days from receipt of such notice) as may be required by the Board. Applicant(s) shall be required

to present themselves for an interview before the Board at such time and place as said Board determines if so requested by the Board. The Board is authorized to waive any or all of the foregoing.

The Board, within ten days after receiving such notice and such supplemental information as is required by the Board, shall either consent to the transaction specified in said notice, or by written notice to be delivered to the Unit Owner's Unit (or mailed to the place designated by the Unit Owner in his notice), designate the Association or any other person(s) satisfactory to the Board who are willing to purchase, lease or rent, upon the same terms as those specified in the Unit Owner's notice, or object to the sale, leasing or renting to the prospective purchaser, tenant or lessee, for good cause, which cause need not be set forth in the notice from the Board to the Unit Owner. However, the Association shall not unreasonably withhold its consent to the prospective sale, rental or lease.

The stated designee of the Board shall have 14 days from the date of the notice sent by the Board within which to make a binding offer to buy, lease or rent, upon the same terms and conditions specified in the Unit Owner's notice. Thereupon, the Unit Owner shall either accept such offer or withdraw and or reject the offer specified in his notice to the Board. Failure of the Board to designate such person(s), or failure of such person(s) to make such offer within the said 14-day period, or failure of the Board to object for good cause, shall be deemed consent by the Board to the transaction specified in the Unit Owner's notice, and the Unit owner shall be free to make or accept the offer specified in his notice and sell, lease or rent said interest pursuant thereto, to the prospective purchaser or tenant named therein, within 90 days after his notice was given,

The consent of the Board shall be in recordable form, signed by two officers of the Association, and shall be delivered to the purchaser or lessee. Should the Board fail to act, as herein set forth, and within the time provided herein, the Board shall, nevertheless, thereafter prepare and deliver its written approval, in recordable form as aforesaid, and no conveyance of title or interest whatsoever shall be deemed valid without the consent of the Board as herein set forth.

The sub-leasing or sub-renting of a Unit Owner's interest shall be subject to the same limitations as are applicable to the leasing or renting thereof. The Association shall have the right to require that a substantially uniform form of lease or sub-lease be used, or in the alternative the Board's approval of the lease or sub-lease form to be used shall be required. After approval, as herein set forth, Units may be rented provided the occupancy is only by the lessee, his family and guests. No individual rooms may be rented and no transient tenants may be accommodated.

Where a corporate entity is the owner of a Unit, it may designate the occupants of the Units as it desires and for such period of time as it desires, without compliance with the provisions of Section A of this Article XV. The foregoing shall not be deemed an assignment or sub-leasing of a Unit. The phrase "sell, lease or rent" as used in this Article, in addition to its general meaning and definition, includes transfers of Unit Owner's interests in Units by gifts or devise.

B. Rights of Mortgagees. Any right of first refusal contained in Section A of this Article shall not impair the rights of a first mortgagee to:

- (1) foreclose or take title to a Unit pursuant to the remedies provided in the mortgage or deed of trust,
- (2) accept a deed (or assignment) in lieu of foreclosure in the event of default by the mortgagor, or

(3) interfere with a subsequent sale or lease of a Unit so acquired by the mortgagee.

C. Exclusions from Right of First Refusal. Section A of this Article shall not apply to transfers by a Unit Owner to any member of his immediate family (viz. - spouse, children or parents).

In the event a Unit Owner dies and his Unit is conveyed or bequeathed to some person other than his spouse, children or parents, or if some other person is designated by the decedent's legal representative to receive the ownership of the Unit, or if, under the laws of descent and distribution of the State of Florida, the Unit descends to some person or persons other than the decedent's spouse, children or parents, the Board may, within 30-days of proper evidence or rightful designation served upon the President or any other officer of the Association, or within 30-days from the date the Association is placed on actual notice of the said devisee or descendant, express its refusal or acceptance of the individual or individuals so designated as the owner of the Condominium Parcel.

If the Board shall consent, ownership of the Condominium Parcel may be transferred to the person or persons so designated who shall, thereupon, become the owner(s) of the Condominium Parcel, subject to the provisions of the Declaration.

If, however, the Board shall refuse to consent, then the Association shall be given an opportunity during 30-days next after said last above mentioned 30-days, within which to purchase or to furnish a purchaser for cash, the said Condominium Parcel, at the then fair market value thereof. Should the parties fail to agree on the value of such Condominium Parcel, the same shall be determined by an Appraiser appointed by the Senior Judge of the Circuit Court in and for the area wherein the Condominium is located, upon ten days' notice, on the petition of any party in interest. The expense of appraisal shall be paid by the said designated person or persons, or the legal representative of the deceased owner, out of the amount realized from the sale of such Condominium Parcel. In the event the Association does not exercise the privilege of purchasing or furnishing a purchaser for said Condominium Parcel within such period and upon such terms, the person or persons so designated may then, and only in such event, take title to the Condominium Parcel; or, such person or persons, or the legal representative of the deceased owner, may sell the said Condominium Parcel, and such sale shall be subject in all other respects to the provisions of this Declaration.

ARTICLE XVI

INSURANCE

A. Authority to Purchase; Named Insured. All insurance policies covering the Condominium Property shall be purchased by the Board on behalf of the Association. The named insured shall be the Association individually and as agent for the Unit Owners, without naming them, as agent for their mortgagees, and all persons lawfully in possession or control of any part of the Condominium Property. Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of Unit owners.

B. Requirements of Policies. The Board on behalf of the Association shall obtain and maintain in effect insurance, as set forth herein, against liability for personal injury or property damage arising from or related to the Common Elements and shall also obtain for the benefit of

those entities or parties stated in Section A to this Article fire and extended coverage insurance on all Buildings and structures of the Condominium Property.

Such insurance shall be governed by the following provisions:

(a) The Board shall be required to obtain a single master policy covering physical damage for the entire Condominium Property under which the insurance company will issue to each Unit Owner a certificate or sub-policy specifying the portion of the master policy allocated to each Unit Owner's Unit and his undivided interest in the Common Elements.

(b) In addition, the Board shall be required to secure a master policy covering physical damage that will provide the following:

(1) the insurer waives its rights of subrogation to any claims against the Developer, the Board, the managing agent, the Unit Owners and their respective agents, employees, guests, and the members of their households;

(2) the master policy on the Condominium Property cannot be cancelled, invalidated, or suspended on account of the conduct of any member of the Board, officer or employee of the Board or the managing agent, without a prior demand in writing that the Board or the managing agent cure the defect;

(3) any "no other insurance" clause contained in the master policy shall expressly exclude individual Unit Owners' policies from its operation;

(4) until the expiration of 30-days after the insurer gives notice in writing to the mortgages of any Unit, the mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Unit Owner of such Unit, the other Unit Owners, the Board, or any of their agents, employees or household members, nor cancelled for nonpayment of premiums.

(5) the master policy may not be cancelled or substantially modified without at least 30-days' prior written notice to the Board and all mortgagees of Units;

(6) the net proceeds of such policies, if less than \$25,000 shall be payable to the Board, and if more than \$25,000 shall be payable to Title Insurance Trustee designated in Section E of this Article;

(7) the master policy shall contain a standard mortgage clause in favor of each mortgagee of a Unit to the extent of the portion of the coverage of the master policy allocated to each Unit, which shall provide that the loss, if any, thereunder shall be payable to such mortgagee and the Unit Owner as their interests may appear, subject, however, to the loss payment and adjustment provisions in favor of the Board and the Insurance Trustee contained in Sections E and F of this Article XVI.

(c) All policies of insurance shall be written with a company licensed to do business in the State of Florida and holding a rating of "AAA" or better by Best's Insurance Reports.

(d) In no event shall the insurance coverage obtained and maintained by the Board hereunder be brought into contribution with insurance purchased by individual Unit Owners or their mortgagees.

(e) Each Unit Owner shall be required to notify the Board of all improvements made by the Unit owner to his Unit, the value of which is in excess of \$1,000.

(f) Any Unit Owner who obtains individual insurance policies covering any portion of the Condominium Property, other than personal property belonging to such Unit Owner, shall be required to file a copy of such individual policy or policies with the Board within 10-days after the purchase of such insurance. Such Unit Owner shall also promptly notify, in writing, the Board in the event such policy is cancelled.

C. Insurance Coverage.²

(1) The Board is required to the extent available to obtain and maintain the following insurance:

(a) Fire with extended coverage, vandalism, malicious mischief and windstorm endorsements, insuring the Condominium Property and covering the interests of the Board and all Unit Owners and their mortgagees, as their interests may appear, in the amount equal to the maximum insurable replacement value of the property or as otherwise required by Florida law.

(b) Workmen's Compensation insurance if and to the extent necessary to meet the requirements of law.

(c) Such other insurance as the Board may determine.

(2) The Board is also required to obtain and maintain to the extent obtainable public liability and property damage insurance in such limits as the Board may from time to time determine, insuring the Developer, each member of the Board, the managing agent, and each Unit Owner against liability to the public or to the Unit Owners (and their invitees, agents and employees arising out of, or incident to, the ownership and/or use of the Common Elements). Said insurance shall be issued on a comprehensive liability basis and shall contain a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured. The Board shall review such limits one a year, but in no event shall insurance be less than \$1,000,000 with respect to any one accident or occurrence and \$1,000,000 with respect to any claim for property damage. It is the responsibility of each Unit Owner to obtain, at his own expense, liability insurance with respect to his ownership and/or use of his Unit, and the Board not being responsible for obtaining such insurance.

² As shown, Section C(1)(a) was specifically amended by the Declaration Amendment recorded at Book 4485, Page 291, in the Official Records for Brevard County, Florida.

(3) A duplicate original of the master policy of physical damage insurance, all renewals thereof, and all sub-policies or certificates issued thereunder, together with proof of payment of premiums, shall be delivered to all mortgagees of Units at least 30-days prior to expiration of the then current policies. Prior to obtaining any policy of fire insurance or any renewal thereof, the Board shall obtain an appraisal from an insurance company, or such other source as the Board may determine, of the full replacement value of the property, without deduction for depreciation for the purpose of determining the amount of physical damage insurance to be affected pursuant to this Section.

D. Separate Insurance. Each Unit Owner has the right, at his own expense, to obtain additional insurance for his own Unit and for his own benefit and to obtain insurance coverage upon his personal property and for his personal liability, provided that no Unit Owner shall be entitled to exercise his right to acquire or maintain such additional insurance coverage so as to decrease the amount which the Board, on behalf of all Unit Owners, may realize under any insurance policy which it may have in force on the Condominium Property at any particular time or to cause any insurance coverage maintained by the Board to be brought into contribution with such additional insurance coverage obtained by the Unit Owner. All such additional policies shall contain waivers of subrogation.

E. Insurance Trustee.

(a) The Board shall have the right to designate any bank, trust company, management agent, savings and loan association, building loan association, insurance company, or any institutional lender, or the Association, as the Insurance Trustee, and all parties beneficiary interested in such insurance coverage shall be bound thereby. The Insurance Trustee at the time of the deposit of such policies and endorsements shall acknowledge that the policies and any proceeds therefrom will be held in accordance with the terms of this Declaration.

(b) The Insurance Trustee shall not be liable for the payment of premiums, the renewal of the policies, the sufficiency of coverage, the form or content of the policies, the correctness of any amounts received by it on account of the proceeds of any insurance policies, nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes elsewhere stated in these Bylaws, for the benefit of the Unit Owners and their respective mortgagees.

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

G. Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the beneficial Unit Owners in the following manner:

(1) Expense of the Association. All expenses of the Association or Board shall be paid first or provisions made for such payment.

(2) Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost of such as

elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Unit Owners involved in the claim and their mortgages, remittances to Unit Owners and their mortgagees being payable jointly to them as their interests may appear. This provision is a covenant for the benefit of any mortgagee of any Unit and may be enforced by such mortgagee.

(3) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damage for which proceeds are paid shall not be repaired or reconstructed, the remaining proceeds shall be distributed to the beneficial Unit Owners involved in the claim and their mortgages, remittances to Unit Owners and their mortgagees being payable jointly to them as their interests may appear.

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

ARTICLE XVII

RECONSTRUCTION OR REPAIR AFTER CASUALTY

A. Determination to Reconstruct or Repair. In the event any part of the Condominium Property is damaged by casualty, the determination of whether or not such damaged Condominium Property shall be reconstructed or repaired shall be made in the following manner:

(1) Common Elements. If the damaged improvement is any of the Common Elements not contained within the dwelling buildings, the damaged Common Elements shall be reconstructed or repaired.

(2) Unit Building.

(a) Minor damage. If the damaged improvement is any one or more of the Buildings which contain Units to which less than 50% of the Common Elements are appurtenant the damaged property shall be reconstructed or repaired.

(b) Major damage. If the damaged improvements are to one or more of the Buildings and if Units to which more, than 50% of the Common Elements are appurtenant are found by the Board to be not tenable then the damaged property will not be reconstructed or repaired and the Condominium will be terminated with agreement of mortgagees as elsewhere provided unless within 60 days after the casualty the Unit Owners exercising no less than 75%, of the voting power of Units so affected agree in writing to such reconstruction or repair.

B. Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Building, or according to plans and specifications approved by the Board and if the damaged Condominium Property is a Building, approval by the Unit Owners of not less than 75% of the voting power of the Units so affected is also required.

C. Responsibility. To the extent that damage is to those parts of a 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.

D. Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Board, or if at any time during reconstruction and repair the funds for the payment of the costs of reconstruction and repair are insufficient, assessments shall be made against the Unit Owners who own the damaged Units and against all Unit Owners in the case of damage to Common Elements not included in the dwelling units, in sufficient amounts to provide funds for the payment of such costs. Such assessments against Unit Owners for damage to Buildings shall be in proportion to the cost of reconstruction and repair of their respective Units. Such assessments on account of damage to Common Elements shall be in proportion to the Unit Owner's percentage share in the Common Elements. Provided, however, in the event that the insurance proceeds are insufficient to pay the Association's and Board's fees and expenses and to make needed repairs and any Unit Owner is unable to pay an assessment to make up such insufficiency, then such Unit Owner's mortgagee, if any, shall have the option to make up said insufficiency or to require the Board and the insurer to pay such mortgagee as its interests may appear from the insurance proceeds.

ARTICLE XVIII **MISCELLANEOUS**

A. Liability. Except for willful or grossly negligent acts, neither Developer nor any employee, agent, successor or assign of Developer shall be liable for any claim or damage whatsoever arising out of or by reason of any actions performed pursuant to or in accordance with the authority granted or delegated to them or any of them by or pursuant to this Declaration.

B. Covenants Running with the Land. Each grantee of Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance,

C. Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

D. Severability. If any provision of this Declaration, or any section, sentence, clause, phrase or word, or the application thereof shall in any circumstances be judicially held in conflict with the laws of the State of Florida, then the said laws shall be deemed controlling and the validity, force and effect of the remainder of this Declaration and the application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby.

E. Service of Notices on the Board. Notices required to be given to the Board of the Association may be delivered to any two members of the Board or to the President of the Association, either personally or by certified mail, with postage prepaid, addressed to such members or officer at his unit.

F. Headings. The heading to each Article and section hereof is inserted only as a matter of convenience for reference and in no way defines, limits or describes the scope or intent of this Declaration.

G. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the establishment and operation of a first class condominium development.

H. Gender. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine and neuter genders and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

EXHIBIT 2

EXHIBIT "P"

AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
JAMESTOWN OF INDIAN HARBOUR BEACH
~~HOMEOWNERS'~~ CONDOMINIUM ASSOCIATION, INC.

The undersigned, by these Articles of Incorporation, associate themselves for the purpose of forming a corporation not for profit under Chapter 617 of the Florida Statutes and certify as follows:

ARTICLE 1
NAME

The name of the corporation shall be JAMESTOWN OF INDIAN HARBOUR BEACH ~~HOMEOWNERS~~ CONDOMINIUM ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the Association. The place of business shall be 130 East Colonial Court, Indian Harbour Beach, Florida, 32937, Brevard County, Florida, and its Post Office address shall be 130 East Colonial Court, Indian Harbour Beach, Florida, 32937, or such other place as the Board of Directors may from time to time designate.

ARTICLE 2
PURPOSE

2.1 The purpose for which the Association is organized is to provide an entity pursuant to Section 718.102 of the Florida Condominium Act, Florida Statutes, Chapter 718, for the operation of Jamestown, a condominium, according to the Declaration of Condominium now or hereafter recorded in the Public Records of Brevard County, Florida, located upon land situated in Brevard County, Florida.

2.2 The Association shall issue no shares of stock of any kind, shall pay no dividends to any members, and shall make no distributions of income to its members, directors or officers. The Association may -pay compensation in a reasonable amount to its members, directors and officers for services rendered, may confer benefits upon its members in conformance with its purpose, and upon dissolution or final liquidation, may make distributions to its members as permitted by the courts having jurisdiction thereof, and no such payment shall be deemed to be a dividend or a distribution of income.

ARTICLE 3
POWERS

The powers of the Association shall include and be governed by the following provisions:

3.1 The Association shall have all of the common-law and statutory powers of a corporation not for profit which are not in conflict with the terms of these Articles.

3.2 The Association shall have all of the powers and duties set forth in the Florida Condominium Act, except as limited by these Articles and the Declaration of Condominium, and all

of the powers and duties reasonably necessary to operate the condominium pursuant to said Declaration as it may be amended from time to time, including but not limited to the following:

(a) To make and collect assessments against members as apartment owners, to defray the costs, expenses and losses of the condominium.

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

(c) To manage, administer, maintain, repair, replace and operate the condominium property.

(d) To purchase insurance upon the condominium property and insurance for the protection of the Association and its members, as apartment owners.

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

(f) To make and amend reasonable Rules and Regulations respecting the use of the condominium property; provided, however, that all such Rules and Regulations and their amendments, except the Rules and Regulations adopted prior to the first members' meeting provided for in the By-Laws of the Association (hereinafter called By-Laws), shall be approved by the members of the Association at an annual or special meeting thereof, before such Rules and Regulations shall become effective.

(g) To approve or disapprove the lease, transfer, mortgage and ownership of apartments as may be provided by the Declaration and the By-Laws.

(h) To enforce by legal means the provisions of the Florida Condominium Act, the Declaration, these Articles, the By-Laws and the Rules and Regulations respecting the use of the property in the condominium.

(i) To contract for the management of the condominium with a third party and to delegate to such third party all powers and duties of the Association, except over such matters as are specifically required by the Declaration to have approval of the Board of Directors or the members of the Association.

(j) To contract for the management or operation of portions of the common elements susceptible to separate management or operation.

(k) To employ personnel to perform the services required for proper operation of the condominium.

(l) To operate and manage the condominium in accordance with the sense, meaning, direction, purpose and intent of the Declaration as the same may be from time to time amended and to otherwise perform, fulfill and exercise the powers and privileges, options, rights, duties, obligations and responsibilities entrusted or delegated to it by the Declaration or By-Laws or both.

3.3 All funds and the titles to all properties acquired by the Association and their proceeds shall be held in trust for the members in accordance with the provisions of the Declaration, these Articles, and the By-Laws.

3.4 The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration, these Articles, and the By-Laws.

ARTICLE 4
MEMBERS

4.1 The members of the Association shall constitute all of the record owners of condominium apartments in Jamestown, and after termination of the condominium, shall consist of those who are members at the time of such termination and their successors and assigns.

4.2 After receiving the approval of the Association required by the Declaration, change of membership in the Association shall be established by recording in the Public Records of Brevard County, Florida, a deed or other instrument establishing record title to an apartment in the condominium and the delivery to the Association of a certified copy of such instrument accompanied by the address of the new owner to which all notices to the member shall be sent. The owner designated by such instrument thus becomes a member of the Association and the membership of the prior owner is terminated.

4.3 The share of a member in the funds and assets of the Association may not be assigned, hypothecated or transferred in any manner except as an appurtenance to apartment.

4.4 The owner of each apartment shall be entitled to one vote as a member of the Association. The manner of exercising voting rights shall be determined by the By-Laws.

ARTICLE 5
TAX EXEMPT STATUS

No part of the net earnings of the Association may inure to the benefit of, or be distributable to, the trustees, managers, directors, officers, employees, agents, members or other private persons, except as specifically authorized in the Regulations; it being the intent of the Association to qualify as a not-for-profit corporation under Florida law and as a "Condominium Management Association" under the following provisions of Section 528 of the Internal Revenue Code:

(a) Organized and operated to provide for the acquisition, construction, management, maintenance and care of Association property;

(b) 80 percent or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees or assessments from owners of residential units;

(c) 90 percent or more of the expenditures of the organization for the taxable year are expenditures for the acquisition, constructions, management, maintenance, and care of association property;

(d) No part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of Association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual; and

(e) Such organization elects (at such time and in such manner as the Secretary by regulation prescribes) to have the section apply for the taxable year,

ARTICLE 8
DIRECTORS

6.1 The affairs of the Association will be managed by a board consisting of the number of directors determined by the By-Laws, but not less than three (3) directors, and in the absence of such determination shall consist of ~~three~~ **five** directors. Directors ~~need not~~ **must** be members of the Association.

6.2 Directors of the Association shall be elected at the first meeting and at the annual meetings of the members in the manner determined by the By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.

6.3 The first election of directors shall be held within sixty (60) days after the unit owners, other than the developer, are entitled to elect a member or members to the Board of Directors in accordance with Chapter 718 of the Florida Statutes. The directors named in these Articles shall serve until the first election of directors, and any vacancies in their number occurring before the first election shall be filled by the remaining directors.

6.4 The names and addresses of the members of the first Board of Directors, who shall hold office until their successors are elected and have qualified, or until removed, are as follows:

<u>Name</u>	<u>Address</u>
Dale P. Shedd	5900 Price James Drive Springfield, Virginia 22152
Phillip Zimmerman	130 East Colonial Court Indian Harbour Beach, Florida 32937
Tom Powell	5900 Price James Drive Springfield, Virginia 22152

ARTICLE 7
OFFICERS

The affairs of the Association shall be administered by the officers designated in the By-Laws. The officers shall be elected by the Board of Directors at its first meeting following the first meeting and following each annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors. Vacancies shall be filled by the Board of Directors. These names and

addresses of the officer who shall serve until their successors are elected by the Board of Directors are as follows:

<u>Officer</u>	<u>Name</u>	<u>Address</u>
PRESIDENT	Tom Powell	5900 Price James Drive Springfield, Virginia 22152
VICE PRESIDENT	Dale P. Shedd	5900 Price James Drive Springfield, Virginia 22152
SECRETARY-TREASURER	Phillip Zimmerman	130 East Colonial Court Indian Harbour Beach, Florida 32937

The directors and officers may lawfully and properly exercise the powers set forth in Article 3 hereof, notwithstanding the fact that some or all of them, who may be directly or indirectly involved in the exercise of such powers and the negotiation and/or consummation of agreements executed pursuant to such powers, are some or all of the persons with whom the Association enters into such agreements or who own some or all of the proprietary interest in the entity or entities with whom the Association enters into such agreements, and all such agreements shall be presumed conclusively to have been made and entered by the directors and officers of this Association in the valid exercise of their lawful authority.

ARTICLE 8 **INDEMNIFICATION**

Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer, unless said director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, provided, however, that in the event of a settlement, this indemnification shall be given only when the Board of Directors approves such settlement and reimbursement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled,

ARTICLE 9 **BY-LAWS**

The first By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided by the By-Laws,

ARTICLE 10 **AMENDMENTS**

Amendments to the Articles of Incorporation shall be proposed and adopted in the following manner:

10.1 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.

10.2 A resolution for the adoption of a proposed amendment may be proposed either by the Board of Directors or by a writing signed by ten percent (10%) or 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 of the proposed amendment in writing, providing such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, in order to be adopted, such amendment must be approved:

(a) by not less than ~~sixty-six and two-thirds~~ **fifty-one** percent (~~66-2/3%~~) **(51%)**, of the entire membership of the Board of Directors and by not less than ~~sixty-six and two-thirds~~ **fifty-one** percent (~~66-2/3%~~) **(51%)**, of the votes of the entire membership of the Association; or

(b) by not less than eighty percent (80%) of the votes of the entire membership of the Association,

10.3 Provided, however, that no amendment shall make any changes in the qualifications for membership nor the voting rights of members, nor any change in Section 3.3 of Article 3 hereof, without the approval in writing of all members and all record owners of mortgages upon the apartment units. No amendment shall be made that is in conflict with the Florida Condominium Act or the Declaration of Condominium.

10.4 A copy of each amendment shall be certified by the Secretary of State of the State of Florida and shall be recorded in the Public Records of Brevard County, Florida.

ARTICLE 11 **TERM**

The term of the Association shall be perpetual unless JAMESTOWN, a condominium, is terminated. In the event of such termination, the Association shall be dissolved in accordance with Florida law.

ARTICLE 12 **DEFINITIONS**

12.1 The definitions contained in the Florida Condominium Act are hereby adopted to the extent that such definitions are applicable to those Articles of Incorporation.

12.2 The term "Developer" means The Klingbeil Company, qualified to do business in Florida,

12.3 The term JAMESTOWN, a condominium, means the condominium property whose Declaration of Condominium is executed by the Developer and in which Declaration this Association is designed as the operating entity.

ARTICLE 13
SUBSCRIBERS

The name(s) and address(es) of the subscriber(s) of these Articles of Incorporation are as follows:

<u>Name</u>	<u>Address</u>
Hubert C. Normile, Jr.	482 N. Harbor City Boulevard Melbourne, Florida 32935
Richard W. Foster	5900 Price James Drive Springfield, Virginia 22152
Phillip Zimmerman	130 East Colonial Court Indian Harbour Beach, Florida 32937

ARTICLE 14
LOCATION AND REGISTERED AGENT

~~The address of the initial business office of the corporation is 130 East Colonial Court, Indian Harbour Beach, Brevard County, Florida, 32937. The name of the initial Registered Agent of the corporation is Hubert C. Normile, Jr., an individual resident in Florida, whose business office is 482 N. Harbor City Boulevard, Melbourne, Florida 32935. The name and address of the Association's registered agent for service of process is the Whynot Law Firm, 1280 Seminola Blvd., Casselberry, Florida 32707, or any other entity or person as may be determined by the Association's Board of Directors from time to time and at their sole discretion.~~

~~IN WITNESS WHEREOF, the subscribers have affixed their signatures this 27th day of October 1978.~~

IN WITNESS WHEREOF, the President of the Association's Board of Directors has affixed his signature as of the date indicated on the Certificate of Amendment to which the above Amended and Restated Articles of Incorporation are attached.

EXHIBIT 3

EXHIBIT "O"

AMENDED AND RESTATED¹
BY-LAWS
OF
JAMESTOWN OF INDIAN HARBOR BEACH
CONDOMINIUM ASSOCIATION, INC.

These By-Laws are intended to provide for the government of JAMESTOWN OF INDIAN HARBOUR BEACH CONDOMINIUM ASSOCIATION, INC., a unit owners' association and a Florida corporation not-for-profit, which Association shall administer the Condominium Property submitted to the provision of Chapter 718, and by the Declaration to which these By-Laws are attached. All Unit Owners, their tenants, guests, invitees, or any persons lawfully in possession and control of any part of the Condominium Property or using the facilities of the Condominium Property in any manner shall be subject to and comply with the covenants, conditions or restrictions contained in the Declaration, these By-Laws, and any administrative rules adopted by Association or the Board. The acquisition or rental of any Unit located within the Condominium Property described in the Declaration or the act of occupancy of any Unit shall constitute acceptance and ratification of the Declaration and these By-Laws.

ARTICLE I
DEFINITIONS

Unless the context clearly indicates otherwise or so requires, all other terms used in the Declaration and the By-Laws, shall be assumed to have the meaning attributable to said terms by the Declaration or, if not so defined therein, then the provisions of Chapter 718.

ARTICLE II
THE ASSOCIATION

Section 1. Name, Address and Nature of Association. The Association is a Florida corporation not-for-profit called Jamestown of Indian Harbor Beach Condominium Association, Inc. The principal office of the Association is at 900 Jamestown Drive, Melbourne, Florida.

Section 2. Identity of Property. The property to which these Bylaws apply is described in the Declaration as the Condominium Property.

Section 3. Membership. Each Unit Owner upon acquisition of title to a Unit automatically becomes a member of the Association; such membership terminates upon the sale or other disposition by such Unit Owner of his Unit, at which time the new owner of such Unit shall automatically become a member of the Association. Membership is appurtenant to and may not be separated from ownership of any Unit. Ownership of such Unit shall be the sole qualification for membership. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

Section 4. Voting Rights. One vote shall be cast with respect to each residential Unit on each matter properly submitted to the members for vote. All quorums and percentages of votes required by an

¹ This Document contains substantial rewording and amendment to the initial Bylaws and the subsequent amendments thereto. The ~~stricken through~~ and underlined version of this document showing all additions and deletions is available for review upon request to the Association.

Association meeting shall be based upon a residential Unit basis and not upon any percentage of interest in the Common Elements.

The Unit Owners of any Unit (if more than one such owner) may not split the vote allocated to each Unit but must cast it as one block on any particular vote and only one Unit Owner of any Unit may cast the vote appurtenant thereto or any question. If after a reasonable time two or more Unit Owners who hold title to a single Unit cannot agree upon which Unit Owner shall cast a vote on any particular issue, the Board is authorized to reject the vote for that Unit as though no Unit Owner for such Unit were present for such meeting. If a Unit is owned by a corporation or partnership, said Owner shall file a Voting Certificate with the Association's Secretary that indicates who is authorized to cast the vote on behalf of said corporation or partnership. In the event a corporate or partnership owner does not have a valid Voting Certificate on file with the Association, the president of such corporation or authorized managing member of any partnership shall have the authority to cast that owner's vote. If a Unit is held in a fiduciary capacity, the fiduciary and not the beneficiary shall be entitled to exercise the appurtenant voting right. Any Unit Owner holding more than one Unit shall have as many votes as Units owned by that Unit Owner.

Section 5. Proxies. Members may vote or act in person or by proxy. The person appointed as proxy need not be a member of the Association. Designation by a member or members of a proxy to vote or act on his or their behalf shall be made in a signed and detailed writing to the Board and shall be revocable at any time by actual written notice to the Board by the member or members making such designation. Notice to the Board in writing or in open meeting of the revocation of the designation of a proxy shall not affect any vote or act previously taken or authorized. Every proxy shall automatically cease upon the sale by the member of his Unit. A proxy given is effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. A proxy is not valid longer than 90 days after the date of the first meeting for which it was given.

Section 6. Meeting of Members.

(a) Annual Meeting. The annual meeting of members of the Association for the election of members of the Board, the consideration of reports to be laid before such meeting, and the transaction of such other business as may properly be brought before such meeting shall be held at the office of the Association, or at such other place upon the Condominium Property or in Brevard County, Florida, as may be designated by the Board and specified in the notice of such meeting. The time for the annual meeting shall be at such time as may be designated by the Board and specified in the notice of the meeting. The annual meeting of members of the Association shall be held within thirteen (13) months of the date on which the annual meeting was held the year prior.

(b) Special Meetings. Special meetings of members of the Association may be held on any business day at the office of the Association or at such other place on the Condominium Property or in Brevard County, Florida, as is specified in the notice of such meeting when called by the President of the Association, by a majority of the Board, or by members entitled to cast at least 25% of the votes of members of the Association, or as otherwise provided by law. No business shall be transacted at a special meeting except as stated in the notice.

(c) Notices of Meetings. Except in the case of emergency meetings, notice shall be posted in a conspicuous place on the condominium property or association property at least 14 continuous days before the annual meeting and given by or at the direction of the Secretary of the Association or any other person or persons required or permitted by these By-Laws to give such notice not less than fourteen nor more than sixty days before the date of any meeting. The notice shall be given by personal delivery or by mail to each member of the Association who is a Unit Owner of record as of the day preceding the day on which notice is given. If mailed, the notice shall be addressed to the members of the Association at their respective addresses as they appear on the records of the Association. Notice of the time, place and purposes

of any meeting of members of the Association may be waived in writing, either before or after the holding of such meeting, by any member of the Association as to his right to notice, which writing shall be filed with or entered upon the records of the Association. The attendance of any member of the Association at any such meeting without protesting the lack of proper notice, prior to or at the commencement of the meeting, shall be deemed to be a waiver by him of notice of such meeting.

(d) Quorum; Adjournment. Except as may be otherwise provided in these By-Laws or the Declaration, at any meeting of the members of the Association, the members of the Association present in person or by proxy shall constitute a quorum for such meeting provided at least twenty percent (20%) of the members of the Association are present in person or by proxy at such meeting. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by majority vote of the members present, whether a quorum be present or not, without notice other than the announce the meeting. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

(e) Required Vote. The vote of a majority of the number of votes represented and entitled to vote at any meeting of the Association shall decide any questions brought before such meeting, unless the question is one upon which, by express provision of Chapter 718, or any amendments thereto or of the Articles, Declaration or these Bylaws, a different voting percentage is required, in which case such express provision shall govern and control.

(f) Order of Business. The agenda and order of business to be followed at a membership meeting shall be established by the Board of Directors and specifically stated and included with any meeting notice provided to the membership.

(g) Conduct of Meeting. The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted by the meeting as well as a record of all transactions occurring thereat. Roberts Rules of Order (latest edition) shall govern the conduct of all meetings of the Association when not in conflict with the Declaration, these Bylaws, or Chapter 718.

ARTICLE III **BOARD OF TRUSTEES (ADMINISTRATION)**

Section 1. Appointment by Developer; Number and Qualification. The affairs of the Association and the Condominium shall be governed by the Board. The Board shall be composed of five persons, all of whom shall be Unit Owners at the time of election and shall be elected by the Unit Owners. Any officer of a corporate Unit Owner, or any partner of a partnership owning a Unit, shall be eligible to serve on the Board.

Section 2. Powers and Duties. Except as otherwise provided by law, the Declaration or these Bylaws, all power and authority of the Association shall be exercised by the Board. In carrying out the purposes of the Condominium Property and subject to the limitations prescribed by law, the Declaration or Bylaws, the Board, for and on behalf of the Association, shall have the following powers and duties (stated generally and not by way of limitation):

(a) Management, operation, care, upkeep, maintenance, improvement, renovation and replacement of the Common and Limited Common Elements, except to the extent specifically imposed upon the individual Unit Owners.

(b) Determination and payment of the Common Expenses of the Condominium. The Board shall have the right to make a final determination of any claim or dispute by a Unit Owner as to whether any charge or expense applies against the Unit Owner rather than the Common Elements and such determination shall be final, conclusive and binding.

(c) Establishment, maintenance and collection of and disbursement from Assessments and Common Charges from the Unit owners, including without limitation, amounts for working capital to meet operating expenses, a general operating reserve, a reserve fund for capital improvements, replacements, and such special assessments as may become necessary to make up any deficit in the Common Charges or Assessments for any prior year. The Board may designate an agent for the purpose of collecting Common Charges and Assessments and for the purpose of making disbursements therefrom on behalf of the Board.

(d) Employment and dismissal of personnel necessary for the maintenance and operation of the Common Elements.

(e) Adoption and amendment of Rules governing the operation and use of the Condominium Property, subject to the right of a majority in interest of the Unit Owners to amend, alter or repeal such Rules or any part thereof. The Board shall further have, in addition to its other remedies, the right to levy fines for violations of these restrictions and its Rules, provided that the fine for a single violation may not, under any circumstances, exceed \$50. For each day a violation continues after notice, it shall be considered a separate violation. Any fine so levied is to be considered as an Assessment and levied against the particular Unit Owner involved. Collection may be enforced by the Board in the same manner as the Board is entitled to enforce collection of Common Charges or Assessments.

(f) Opening of bank accounts on behalf of the Condominium and designating the signatories required therefor.

(g) Leasing the recreational facilities, offices and garages not owned by any Unit owner subject to zoning ordinances and any other governmental regulations upon terms and conditions as the Board may establish.

(h) Making of repairs, additions and improvements to or alteration or restoration of the Condominium Property in accordance with the provisions of the Declaration and Bylaws including those necessitated by damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings.

(i) The Board shall have the power to enforce obligations of the Unit Owners, to allocate Common Surplus and Expenses, and to do anything and everything else necessary and proper for the sound management of the Condominium, including the right to bring lawsuits to enforce the Rules promulgated by the Board.

(j) The Board shall employ a managing agent and/or manager for the Condominium at a compensation to be established by the Board, to perform such duties and services as the Board shall authorize, including but not limited to the duties granted to the Board as set forth above. The Board and managing agent may also share management, common expenses, facilities and equipment, personnel, and any other services with other condominiums.

(k) The Board shall have the power to obtain and maintain insurance relating to the Condominium Property.

(l) The Board shall have the power to exercise rights as provided in Article XV, Declaration.

(m) The Board shall have the power and authority to take any and all acts (including the creation of various committees of Unit owners to discharge duties of the Board) and to do any and all things as are necessary or incidental to the implementation, enforcement or furtherance of the terms and provisions of the Florida Condominium laws, the Declaration and these Bylaws, or as may otherwise be granted to and accepted by the Board from one or more Unit owners.

Section 3. Election of Board; Vacancies. The Board shall be elected at each annual meeting of members of the Association. Only persons nominated as candidates are eligible for election as Board members. The candidates polling the highest number of votes shall be elected. In the event of the occurrence of any vacancy or vacancies in the Board, the remaining Board members, though less than a majority of the whole authorized number of Board members, may, by the vote of a majority of their number, fill any vacancy for the unexpired term.

Section 4. Term of Office; Resignation. Each Board member shall hold office until the expiration of his term and until his successor is elected, or until his earlier resignation, removal from office, death or incapacity. Any Board member may resign at any time by oral statement to that effect made at a meeting of the Board or in a writing to that effect delivered to the Secretary of the Association; such resignation shall take effect immediately or at such later time as the Board member may specify. Members of the Board shall serve without compensation. At the first annual meeting of the members of the Association after the period during which Developer may appoint the Board members, the members shall elect two Board members for a term of two years each and three Board members for a term of one year each; and at each annual meeting thereafter, the members shall elect, for comparable terms, that number of Board members that is equal to the number of Board members whose term then expires. If the number of Board members is increased, all members shall have staggered terms, so that the terms of at least three-fifths of the Board members will expire annually.

Section 5. Organization Meeting. The first meeting of the newly elected Board members shall be held within one week of election at such place as shall be fixed by the Board at the meeting at which such members were elected, and no notice shall be necessary to the newly elected members in order legally to constitute such meeting, providing a majority of all the Board members are present.

Section 6. Regular Meeting. Regular meetings of the Board may be held at such times and places as shall be determined by a majority of the Board, but at least four such meetings shall be held during each fiscal year. Notice of regular meetings of the Board shall be given to each Board member personally, by mail, addressed to his residence, or by telephone, at least three days prior to the day for such meeting.

Section 7. Special Meetings. Special meetings of the Board may be held at any time upon call by the President, Secretary, or a majority of the Board members. Written notice of the time, place and purpose of each such meeting shall be given to each Board member either personally, by mail, or telegram at least two days before the meeting; provided, however, that attendance of any Board member at any such meeting without protesting the lack of proper notice, prior to or at the commencement of the meeting, shall be deemed to be a waiver by him of notice of such meeting. Notice may be waived in writing either before or after the holding of such meeting by any Board member, which writing shall be filed with or entered upon the records of the meeting.

Section 8. Quorum; Adjournment. At all meetings of the Board, a majority of the whole authorized number of Board constitutes a quorum for the transaction of business and the vote of a majority

of the members of the Board present and voting at a meeting, at which a quorum is present, constitutes a valid act of the Board. If at any meeting of the Board there is less than a quorum present, the majority of those present may adjourn the meeting to a new date. At any such adjourned meeting at which a quorum is present, any business which may have been transacted at the original meeting may be transacted without further notice.

Section 9. Conduct of Meetings. The President shall preside over all meetings of the Board and the Secretary shall keep a minute book of the Board recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings. Roberts Rules of Order (latest edition) shall govern the conduct of the meetings of the Board when not in conflict with the Declaration, these Bylaws, or Chapter 718.

Section 11. Action by Unanimous Consent. If all the Board members consent in a writing, duly filed with the Secretary, to any action to be taken by the Board, which may be authorized or taken at a meeting, such action shall be as valid as though it had been authorized at a meeting of the Board.

Section 12. Removal of Board Member. At a regular or special meeting of members of the Association duly called, any one or more of the Board, may be removed with or without cause by the vote of members entitled to exercise at least 50% of the voting power of the Association, present at the meeting, and a successor or successors to such Board member or members so removed shall then be elected by the Board to fill the vacancy or vacancies thus created. Any Board member whose removal has been proposed by the members of the Association shall be given an opportunity to be heard at such meeting.

Section 13. Fidelity Bonds. The Board shall require that all officers, directors or employees of the Association handling or responsible for Association funds provide adequate fidelity bonds. The premiums on such bonds shall be paid by the Association and shall be a Common Expense.

ARTICLE IV **OFFICERS**

Section 1. Election and Designation of Officers. The Board shall elect annually at the organization meeting of each new Board, a President, one or more Vice-Presidents, a Secretary and a Treasurer. No person may be the President or Treasurer who is not also a member of the Board. The Board may also appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary.

Section 2. Term of Office; Vacancies. The officers of the Association shall hold office until the next organizational meeting of the Board and until their successors are elected, except in case of resignation, removal from office or death. The Board may remove any officer at any time, with or without cause, by a majority vote of the Board members. Any vacancy in any office may be filled by the Board at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 3. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the members of the Association and at all meetings of the Board. Subject to directions of the Board, the President shall have general executive supervision over the business and affairs of the Association. He may execute all authorized deeds, mortgages, notes, contracts and other obligations of the Association and shall have such other authority and perform such other duties as may be determined by the Board or otherwise provided for in the Declaration or in these Bylaws.

Section 4. Vice-Presidents. The Vice-President shall perform the duties of the President whenever the President is absent or unable to act and shall have such other authority and perform such other

duties as may be determined by the Board. Any other Vice-Presidents shall perform such duties as may be determined by the Board.

Section 5. Secretary. The Secretary shall keep the minutes of meetings of the members of the Association and of the Board. He shall keep such books as may be required by the Board, shall give notices of meetings of members of the Association and of the Board required by law, or by these Bylaws or otherwise, and shall have such authority and shall perform such other duties as may be determined by the Board.

Section 6. Treasurer. The Treasurer shall receive and have charge of all money, bills, notes and similar property belonging to the Association, subject to direction by the Board. He shall keep accurate financial accounts and hold the same open for the inspection and examination of the Board members and shall have such authority and perform such other duties as may be determined by the Board.

Section 8. Delegation of Authority and Duties. The Board is authorized to delegate the authority and duties of any officer to any other officer or to any committee of Unit Owners and generally to control the action of the officers and to require the performance of duties in addition to those mentioned herein.

Section 9. Compensation. No person shall receive any compensation for acting as an officer of the Association but may receive compensation for services rendered to or for the Association in any other capacity. All officers shall be reimbursed for authorized out-of-pocket expenditures which shall be paid as a Common Expense.

Section 10. Agreements, Contracts, Deeds, Checks, etc. All agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be executed by any two officers of the condominium, or by such other person or persons as may be designated by the Board.

ARTICLE V

GENERAL RIGHTS AND DUTIES OF THE ASSOCIATION

Section 1. Right of Access. Each Unit Owner shall grant a right of access to his Unit to the manager, the managing agent or any other person authorized by the Board for the purpose of making inspections, for the purpose of correcting any condition originating in said Unit and threatening another Unit or Common Elements, or for the purpose of performing necessary installations, alterations or repairs to the electrical or mechanical services or other Common Elements in his Unit or elsewhere in the Building in which the Unit is located, provided, that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency, such right of entry shall be immediate, whether the Unit Owner is present at the time of the necessitated entry or not.

Section 2. Special Services. The Association may arrange for the provision of any special services and facilities for the benefit of such Unit Owners or occupants, or both, as may desire to pay for the same, including, without limitation, cleaning, repair and maintenance of Units and provisions of special recreational, educational or medical facilities. Fees for such special services and facilities shall be determined by the Board and may be charged directly to participating Unit Owners or paid from the maintenance fund and levied as a special assessment due from the participants.

Section 3. Delegation of Duties. Nothing herein contained shall be construed so as to preclude the Association, through its Board and officers, from delegating to persons, firms or corporations of its choice, including any manager or managing agent, such duties and responsibilities of the Association

as the Board shall from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities.

Section 4. Utility Service. The Association, for the benefit of all Unit owners, may pay, as a Common Expense, the cost of water, waste removal, electricity, telephone, heat, power or any other necessary utility service for the Common Elements and the cost of water, gas, waste removal or any utilities which are not separately metered or otherwise directly charged to individual Unit Owners. However, the Association may discontinue such payments at any time, in which case each Unit Owner shall be responsible for the direct payment of his share of such expenses as shall be determined by the Board of the Association. The Association reserves the right to levy additional assessments against any Unit owner to reimburse it for excessive use, as shall be determined by the Board by such Unit owner of any utility service having been charged against or to the maintenance fund.

Section 5. Rental Laundry Facilities. The Association may enter into any agreements for providing laundry facilities for the Condominium Property and any revenue derived therefrom shall be used to defray the Common Expenses incurred by the Association.

ARTICLE VI

LIABILITY AND INDEMNIFICATION

Section 1. Liability and Indemnification of Board Members and Officers.

(a) Liability-Judgement Matters. Neither the members of the Board nor the officers of the Association shall be liable to the Unit Owners, or anyone of them, for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith.

(b) Liability-Contracts. (1) Each Unit Owner shall release, indemnify and hold harmless each of the members of the Board against all contractual liability to others arising from contracts made by the Board on behalf of the Association unless any such contracts shall have been made in bad faith or contrary to the provisions of the Declaration, Articles or these Bylaws, and the members of the Board shall have no liability with respect thereto. Every contract or agreement made by the Board or any officer shall be made on behalf of the Association and shall contain a provision that no Board member, officer or Unit Owner may be held personally liable for performance or any liability under such contract or agreement.

(c) Indemnification Rights. The Association shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action or suit whether by or in the right of the Association to procure a judgment in its favor or otherwise, by reason of the fact that he is or was a trustee, manager, director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a trustee, manager, director, officer, employee, or agent of another corporation, domestic or foreign, nonprofit or for profit, partnership, joint venture, trust, or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such action, suit, or proceeding, to the extent and under the circumstances permitted by the General Nonprofit Corporation Law of the State of Florida. Such indemnification (unless ordered by a court) shall be made as authorized in a specific case upon a determination that indemnification of the applicable individual is proper in the circumstances because he or she has met the applicable standards of conduct set forth in the General Nonprofit Corporation Law of the State of Florida. Such determination shall be made (a) by the Board by a majority vote of a quorum consisting of Board members who were not, and are not, parties to or threatened with any such action, suit or proceeding, or (b) if such a quorum is not obtainable, or if a majority vote of a quorum of disinterested Board members so directs, in a written opinion by independent legal counsel meeting the requirements of independence prescribed by the General Nonprofit Corporation Law of Florida, or (c) by

the Unit Owners, or (d) by the court of common pleas or the court in which such action, suit, or proceeding was brought.

The foregoing right of indemnification shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the Articles, these Bylaws, any agreement, vote of Unit Owners or disinterested Board members, or otherwise, and shall continue as to a person who has ceased to be a Board member or officer and shall inure to the benefit of the heirs, executors and administrators of such a person.

The Association may pay expenses, including attorneys' fees, incurred in defending any action, suit, or proceeding referred to above, in advance of the final disposition of such action, suit, or proceeding as authorized by the Board in the specific case, upon receipt of an undertaking by or on behalf of the Board member or officer to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article.

The Association may purchase and maintain insurance on behalf of any person who is or was a trustee, manager, director, officer or employee of the Association, or is or was serving at the request of the Association as a trustee, manager, director, officer, or employee of another corporation, domestic or foreign, nonprofit or for profit, partnership, joint venture, trust, or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify against such liability under this Article.

(d) Common Expense. Any costs, expenses or liability of the Association arising under this Article shall be a Common Expense.

ARTICLE VII **MISCELLANEOUS**

Section 1. Construction of Provisions. The provisions of Bylaws shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium apartment community.

Section 2. Amendments to Bylaws. Amendment to these Bylaws may be adopted at a meeting of the Unit Owners, held for such purpose, by the affirmative vote of the Unit owners exercising not less than fifty-one percent (51%) of the voting power of all Unit Owners.

I certify that the foregoing is a true copy of the Code of Bylaws of Jamestown of Indian Harbor Beach Condominium Association, Inc.