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May 9, 2016

VIA EMAIL Diana.Diaz@fchr.myflorida.com

AND VIA REGULAR MAIL

Florida Commission on Human Relations
c/o Diana Diaz
4075 Esplanade Way, Room 110
Tallahassee, FL 32399

RE: Thomas D'Aiuto v. Moon Bay Condominium Association, Inc., et al.
FCHR No.: 2016H0336; HUD No.: pending
Our File No.: 16068-1

Dear Ms. Diaz:

Bush Ross, P.A. represents Moon Bay Condominium Association, Inc. (the "Association"), with regard to the above referenced complaint (the "Complaint"). This correspondence shall serve as the Association's answer and Position Statement in response to the Complaint.

The Complaint alleges that the Association has denied Complainant a reasonable accommodation request in violation of the federal Fair Housing Act and Sections 760.20-760.37, Florida Statutes (the Florida Fair Housing Act). The Complainant contends that he is a person with a disability and requires a mechanical boat lift to permit him easier access to boarding and exiting his recreational boat. The Complainant admits that the Association granted his accommodation, but alleges that the conditions placed on the accommodation were unreasonable. Specifically, the Complaint alleges that the requirements that (1) the Complainant install an electrical meter and pay for the actual costs to power his mechanical boat lift and (2) the Complainant store his boat lift in the down position when not in use are unreasonable and, thus, discriminatory.

Under the circumstances, the Association has not violated the federal Fair Housing Act or Chapter 760, Florida Statutes. *See Bhogaita v. Altamonte Heights Condo. Ass'n, Inc.*, 765 F. 3d 1277, 1285 (11th Cir. 2014) (The "[federal] FHA and the Florida Fair Housing Act are substantively identical, and therefore the same legal analysis applies to each."). To prevail on a failure-to-accommodate claim such as this, the Complainant must prove that (i) he is disabled within the meaning of the FHA; (ii) he requested a reasonable accommodation; (iii) the requested accommodation is **necessary** to afford him an equal opportunity to use and enjoy his dwelling; and (iv) the Association refused to make the accommodation. *Id* (emphasis added).

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The Complainant has not proven that the requested accommodation is necessary to afford him an equal opportunity to use and enjoy his dwelling

The Complainant does not provide any information concerning his specific disability or how the requested accommodation will ameliorate the effects of his disability. However, it is the Association's understanding that Complainant contends that he needs to install a boat lift in his boat slip because he has trouble balancing due to his disability.

Depending on his specific condition, alternatives may exist that would not be as burdensome as the requested accommodation. For example, without more information, the Commission cannot determine whether a ladder, swing chair or other device would be sufficient to achieve the desired result of easier access to Complainant's recreational vessel. In fact, several years ago, a unit owner who was in a wheel chair was able to board his recreational vessel by installing a swing chair. Nothing in the Complaint explains why a boat lift in particular is required or why the reasonable accommodations presented by the Association would interfere with the accommodation. Additionally, an alternative to a boat lift may be preferable as a boat lift will not assist Complainant in embarking and disembarking his vessel anywhere but the Condominium.

The Association Granted the Requested Accommodation with Reasonable Conditions.

Notwithstanding the fact that the Complainant cannot demonstrate his request is both reasonable and necessary, the Complainant also cannot prove the Association refused to make the requested accommodation or constructively denied his modification request. In fact, the opposite is true. The Association has repeatedly granted the Complainant's requested accommodation with reasonable conditions. Specifically, the Association granted the request with reasonable conditions as early as August 2015.

Although the FHA does not define a "reasonable accommodation," the Eleventh Circuit has held that an accommodation is *unreasonable* if "it would impose an undue financial and administrative burden on the housing provider" or if "it would fundamentally alter the nature of the provider's operations." *Warren v. Delvista Towers Condo. Ass'n, Inc.*, 49 F. Supp. 3d 1082, 1086 (S.D. Fla. 2014) (quoting *Schwarz v. City of Treasure Island*, 544 F.3d 1201, 1218-1219 (11th Cir. 2008)).

In determining whether the requested accommodation is reasonable, a cost (to the Association) versus benefit (to the Complainant) analysis must be done. *Bronk v. Ineichen*, 54 F.3d 425, 429 (7th Cir. 1995). The reasonableness requirement does not entail an obligation to do everything humanly possible to accommodate a disabled person. *Id.* Balancing the parties' needs must be involved in the analysis. *Id.* Further, it should also be considered whether alternatives exist to accomplish the desired result more efficiently. *Bryant Woods Inn, Inc. v. Howard County, Maryland*, 124 F.3d 597, 604 (4th Cir. 1997).

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Moreover, because granting the requested accommodation is a fundamental alteration of the Association's deed restrictions and covenants running with the land, certain conditions must be placed on the accommodation to make it reasonable. Accordingly, Respondent has not shown that the request without the stated conditions was reasonable.

In addition to the reasonableness requirement, the Complainant must show that the requested accommodation is "necessary" to afford him an "equal opportunity" to use and enjoy his condominium unit. This element requires the demonstration of a direct linkage between the proposed accommodation and the "equal opportunity" to be provided. *See Bronk*, 54 F.3d at 429. If the desired accommodation does not directly ameliorate the effects of the disability, it cannot be said to be "necessary." *Id.*; *see also Bryant Woods Inn, Inc.*, 124 F.3d at 604. Accordingly, the Complainant must demonstrate that the requested accommodation, without the stated conditions, is necessary to ameliorate the effects of his disability. He has not done so in his Complaint. Instead, he has simply made the conclusory allegation that the conditions are unreasonable and discriminatory.

Moreover, the FHA does not require accommodations that increase a benefit to a disabled person above that provided to a person who is not disabled with respect to matters unrelated to the handicap. *See Bryant Woods Inn, Inc. v. Howard County, Md.*, 124 F.3d 597, 604 (4th Cir. 1997). Without the Association's stated conditions, the requested accommodation would impose an undue financial and administrative burden on the Association. Without the reasonable conditions placed upon the accommodation, the Complainant would be receiving an increased benefit above other Condominium Unit and/or boat slip owners. Additionally, Complainant has not provided any information about his disability that suggests the reasonable conditions would interfere with his *equal* use and enjoyment of his dwelling. Stated differently, the Complainant has not demonstrated how the stated conditions continue to prevent him from gaining access to his boat as a result of his disability.

The Complainant takes issue with 2 conditions set forth by the Association in granting the accommodation. First, Complainant contends that it is unreasonable to require an electric meter to be installed on the boat lift because other owners are allowed unlimited use of electricity at their boat slips.

Installation of an Electrical Meter on the Boat Lift is a Reasonable Condition for the Requested Accommodation.

The Florida Fair Housing Act requires that the person requesting an accommodation bear the expense of such accommodation. Fla. Stat. § 760.23(9)(a). Section 760.23(9)(a), *Florida Statutes* defines discrimination as:

A refusal to permit, ***at the expense of the handicapped person***, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises;

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(emphasis added). The Association's reasonable condition that an electrical meter be installed on the mechanical boat lift ensures the Complainant will bear the full expense of the accommodation and the other boat slip owners will not be forced to share in that added cost. Currently, the other boat slips do not have mechanical lifts; therefore, the electrical costs associated with those lifts are minimal and consistent across the board. The added expense of a mechanical boat lift should not be borne by the other boat slip owners. The Complainant will not be required to use the electrical meter for all electrical use. Therefore, like all the other owners he has unlimited use of electricity for things like charging batteries etc. However, no other owner in the condominium has a boat lift and the other members should not be required to pay for the power to run Complainant's boat lift. Accordingly, this condition requiring Complaint to pay the actual costs of his accommodation (rather than placing that burden on the other owners) is reasonable and not an undue barrier to the granted accommodation.

Storing the Boat Lift in the Down Position is a Reasonable Condition on the Requested Accommodation.

Moon Bay Condominium is located on Blackwater Sound in Key Largo and has been in existence over thirty years. In that time, no one has ever had a boat lift in the Marina. The reason boat lifts have not been permitted in the Marina is because the value of the property in Moon Bay is tied to its distinctively situated marina. The condominium looks out over the Marina to the west. The view of the sunset over the water to the west is pristine. There are no buildings or natural land features that obstruct the view of the marina or the view of the sun setting in the west. As explained below modifications to the boat slip are prohibited by the governing documents of the Association.

Article VI, Section H of the Declaration requires,

- (1) No Unit Owner or Owner of a Boat Slip shall without first obtaining the prior written approval of the Association make any alteration or addition in or to any portion of his Unit or Boat Slip or of the Condominium Property, or remove any portion thereof, or make any addition thereto, or do any work which would jeopardize the safety or soundness of the Condominium or impair any easement.
- (2) No Unit Owner or Owner of a Boat Slip shall without first obtaining the prior written approval of the Association make any alteration, modification, decoration, repair, replacement, enclosure or change of the Common Elements, Limited Common Elements, dock area, balcony or terrace, or to the exterior of any door or door-jamb which opens into any of the Common Elements or common areas of the Condominium Property, or any exterior hallway lights, including but not limited to the erection of any awning, storm shutters, or other device, window covering, fixtures, paintings, or wall coverings, or any other changes or alterations which would in any way or

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manner whatsoever change the physical and visual appearance of the Unit or Boat Slip, including any balcony which is a part of the Unit.

A copy of the Declaration is attached as **Exhibit "A"**. Further, Article XIV, Section E of the Declaration provides in relevant part,

No Boat Slip Owner shall, without first obtaining the prior written approval of the Association, make any alternation or addition in or to any portion of his Boat Slip or of the Condominium Property, or remove any portion thereof, or make any addition thereto, or do any work which would jeopardize the safety and soundness of the Marina Area, any adjoining Boat Slip, the Condominium Property or impair any easement.

Furthermore, the Association does not actually own the subject boat slip, rather the Association is charged with maintaining and managing the common elements for the benefit of the unit owners. Declaration at Article VIII ("The Common Surplus, the Common Elements and the Limited Common Elements shall be owned by the Condominium Owners in accordance with the percentage of ownership attributable to each Unit as set for the in EXHIBIT "2" attached hereto.")). The Association's governing documents do not permit mechanical boat lifts. Any accommodation for such a boat lift would be a material alteration requiring a vote of approval from the unit owners. Article VI, Section H of the Declaration states in part as follows:

Whenever in the judgment of the Board of Directors, the common elements, or any part thereof, shall require capital additions, alterations or improvements (as distinguished from repairs or replacements), which are necessary and/or which do not cost more than \$15,000.00 in aggregate for the calendar year, the Board of Directors may proceed with such addition, alteration or improvement. However, if substantial or material additions, alterations or improvements are required which cost in excess of \$15,000.00, then the Board of Directors may not proceed with same unless it receives the approval of a majority of the voting interests of the Association.

Additionally, the Association has surveyed its membership for several years regarding the installation of mechanical boat lifts in the marina. Year after year, the membership consistently opposes boat lifts in an effort to maintain the appearance of the community and the visibility of the waterfront on which the property sits. A true and correct copy of the most recent survey is attached hereto and incorporated herein as **Exhibit B**.

Also, the owners of the boat slip adjacent to Complainants' boat slip have raised an objection to a trespass on their property related to the installation of a boat lift. A copy of an email the Association received from the owners is attached hereto and incorporated herein as **Exhibit C**.

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While the Association will not deny a necessary and reasonable accommodation even though it is prohibited by the Association's Declaration, it has placed reasonable restrictions on the accommodation so as not fundamentally alter the nature of the purpose and existence of the Association and its covenants running with the land. Furthermore, granting the requested accommodation without the reasonable conditions related to the size, height, type, or manner of installation would allow the Complainant *superior* use and enjoyment of his dwelling rather than the *equal* use and enjoyment to which he is entitled under the law.

Initially, the Association was working with Complainant to find a boat lift that would minimally interfere with the other owners use and enjoyment of the marina. However, at the Complainant's request, the Association agreed that Complainant could use the lift that he chose, provided that he kept the lift in the down position when it was not in use.

The Complainant has indicated that the mechanical boat lift is required only for ease of entering and exiting his vessel. There is no indication that the boat lift remaining in the up position provides any direct amelioration of the Complainant's handicap. The Complainant has taken the position that leaving the boat lift submerged will increase maintenance costs and would be against manufacture specifications and safety guidelines. If that is the case, the Complainant should install a boat lift that can safely remain in a down position. The request for an accommodation is for the Complainant's safe embarkation and disembarkation of the vessel, not for storage or protection of the vessel.

Allowing Complainant to store his boat in the up position would interfere with the view of the water of others and increase a benefit to Complainant, not equal to, but greater than other unit owners. Accordingly, this is a reasonable condition and does not place any undue barrier to installation of the accommodation.

Melinda D'Auito lacks standing.

Melinda D'Auito joins in the Complaint. However, not a single allegation pertains to Ms. D'Auito. Ms. D'Auito lacks standing to bring the Complaint and the Complaint does not include any facts that support a claim by Ms. D'Auito. Accordingly, the Association requests that the Commission on Human Relations find no reasonable cause exists to believe that a discriminatory housing practice has occurred or is likely to occur with regard to Melinda D'Auito.

In conclusion, the Association has granted the Complainant's request with reasonable conditions. The Complainant has failed to allege how the reasonable conditions prevent him from gaining access to his recreational boat as a result of his disability. Without the reasonable conditions, Complainant's accommodation would fundamentally alter the common elements of the condominium and grant a greater benefit to the Complainant to the detriment of the other owners. Accordingly, the Association requests that the Commission on Human Relations find that no probable cause exists to believe that a discriminatory housing practice has occurred or is likely to occur.

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Should you require any additional information from the Association, please do not hesitate to contact me. In the event that the Commission on Human Relations receives additional information pertinent to the consideration of this matter, the Association requests an opportunity to respond to any such information.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Freeman', with a long horizontal flourish extending to the right.

Meredith A. Freeman

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Description of Association's Business Operations

(a) The Association is responsible for the operation and maintenance of Moon Bay Condominium property, which consists of eighty-four (84) condominium units and only sixty-three (63) separate boat slips. The Association is not in the business of renting or leasing condominium units.

(b) The Association is not engaged in any other business operations other than those stated in section (a), above.

(c) The Association operates pursuant to its governing documents, which include the Declaration of Condominium, the Articles of Incorporation, the By-Laws, and the Rules and Regulations of the Condominium. The Association also has authority to exercise certain powers with respect to the Condominium as described in Florida Statute, Section 718.101, et seq.

(d) The Association is created by operation of Chapter 718, Florida Statutes. It is owned by the unit owners and managed by its management company, Patriot Property Services, Inc.

(e) The Association does not receive any federal funding.

PLEASE COMPLETE AND RETURN THIS FORM IMMEDIATELY

Re: D'Aiuto v. MOON BAY CONDOMINIUM ASSOCIATION, INC.
FCHR No: 2016H0336

() I hereby agree to participate in Conciliation. I understand the purpose of conciliation is to provide an effective, timely and voluntary resolution of the discrimination complaint. I understand that a conciliator will be assigned to provide the technical assistance needed to achieve mutual voluntary resolution. I understand that if an agreement is reached, it will be put in writing and signed by all parties and the case will be closed.

☒ I do not believe that this matter can be resolved through conciliation at this time.

5/9/2016 MOONBAY CONDO
Date Signature Telephone Number
MARIA VICARIO, PRES.

Return to: 4075 Esplanade Way
Room 110
Tallahassee, Florida 32399

Web Site <http://fchr.state.fl.us>

AFFIDAVIT TO AUTHENTICATE DOCUMENTS

State of Florida

County of _____

1. TRUE AND CORRECT COPIES

I (We) MARK VIGARINO, PRESIDENT of
[Name(s) of custodian(s) of records]

MOON BAY CONDO ASSOC INC

[Title of such person(s)]

after being duly sworn, hereby attest that the attached documents are true and correct copies of the originals maintained by
ASSOCIATION

[Name of the Respondent or entity keeping document(s)]

PATRIOT PROPERTY SERVICES

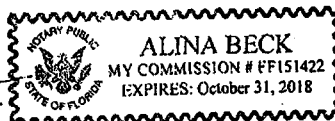
[Name of section(s) or Division(s) Maintaining Records]

[Signature]
[Signature of Custodian]

Sworn to and subscribed before me this:

27th day of October 2015

Public Notary



My Commission expires: 10/31/15

2. ACCURACY OF ORIGINAL DOCUMENT

I (We) MARK VIGARINO, PRESIDENT of
[Name of person(s) generating documents or person(s) familiar with events reflected in documents]

MOON BAY CONDO ASSOCIATION INC

[Title(s) of such person(s)]

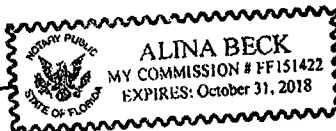
after being duly sworn, hereby attest that the originals of the attached documents accurately reflect the events on them.

[Signature]
[Signature of Custodian]

Sworn to and subscribed before me this:

27th day of October 2015

Public Notary



My Commission expires: 10/31/15



A MOST UNIQUE CONDOMINIUM COMMUNITY IN THE FLORIDA KEYS

IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT

1. PURCHASERS OF CONDOMINIUM APARTMENTS IN MOON BAY, A CONDOMINIUM, SHALL RECEIVE A FEE SIMPLE INTEREST THEREIN PLUS AN UNDIVIDED INTEREST IN THE COMMON ELEMENTS AND LIMITED COMMON ELEMENTS APPURTENANT THERETO.

2. THERE IS NO LAND LEASE OR RECREATION FACILITIES LEASE ASSOCIATED WITH THIS CONDOMINIUM.

3. THE OWNER HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD, AS SET FORTH IN ARTICLE V(B) OF THE DECLARATION OF CONDOMINIUM OF MOON BAY, A CONDOMINIUM.

4. THE SALE, LEASE, OR TRANSFER OF YOUR UNIT IS RESTRICTED OR CONTROLLED. PLEASE SEE ARTICLE XII OF THE DECLARATION OF CONDOMINIUM.

5. THERE IS NO MANAGEMENT AGREEMENT ASSOCIATED WITH THIS CONDOMINIUM.

THE STATEMENTS SET FORTH ABOVE ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES AS WELL AS TO THE ENTIRE SET OF DISCLOSURE MATERIALS AND HIS CONTRACT OR PURCHASE AGREEMENT. ALL DISCLOSURE MATERIALS, CONTRACT DOCUMENTS, AND BROCHURE MATERIALS ARE IMPORTANT LEGAL DOCUMENTS, AND IF NOT UNDERSTOOD, PROSPECTIVE PURCHASER SHOULD SEEK LEGAL ADVICE.

INDEX OF DISCLOSURE DOCUMENTS

MOON BAY, A CONDOMINIUM

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ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS PROSPECTUS AND THE EXHIBITS REFERRED TO HEREIN.

PROSPECTUS

The following is a summary of the pertinent facts relating to MOON BAY, A CONDOMINIUM, a residential condominium, herein sometimes referred to as MOON BAY:

1. MOON BAY is a three building condominium apartment residence located at U. S. 1, Marker 104, Bayside, Upper Key Largo, Florida, with a post office address of Rte. 3, Box 279, Key Largo, Florida 33037.
2. MOON BAY contains a total of 84 apartments.
3. There is no recreation or ground lease associated with this condominium project.
4. It is MASSMUTUAL MORTGAGE AND REALTY INVESTORS', hereinafter referred to as MASSMUTUAL, intention to sell all of the Condominium Apartments. In the event all of the Condominium Apartments are not sold, MASSMUTUAL reserves the right to lease any unsold Condominium Apartments.
5. MOON BAY consists of three (3) buildings which will include all of the Apartment residences and facilities owned in common by the Unit Owners, and in addition thereto, a parking area containing one hundred eight (108) parking spaces, lobbies, and public areas, two (2) swimming pools, and a recreation deck area, men's and women's bathrooms and sauna with dressing areas, billiard and ping pong area, boat ramp, observation sun deck, and a marina area containing sixty-three (63) boat slips. Adjacent areas will be landscaped.
6. MOON BAY offers a choice of five (5) different Apartment floor plans:

<u>Building</u>	<u>No. Units</u>	<u>Rooms in each Unit</u>
A	40	2 Bedrooms - Living & Dining, 1-1/2 Baths - Terrace
B	24	2 Bedrooms - Living & Dining, 1-1/2 Baths - Terrace
B	2	3 Bedrooms - Living & Dining, 2 Baths, Terrace
B	3	2 Bedrooms - Living & Dining, 2-1/2 Baths - Terrace
C	16	2 Bedrooms - Living & Dining, 1-1/2 Baths - Terrace & Balcony

7. MOON BAY offers a marina facility containing 63 boat slips, which facility is located west of and adjacent to Buildings B and C. It is MASSMUTUAL's intention to sell 45 of the said boat slips, with the remaining 18 slips being conveyed as part of the purchase price to purchasers of the two (2) three-bedroom Apartments in Building B and to all purchasers of Apartments in Building C. In the event that all of the boat slips are

not sold or conveyed as hereinabove provided, MASSMUTUAL reserves the right to lease any unsold boat slips.

8. A copy of the site and plot plan designating the portions of the Apartment buildings that are owned by the Unit Owners or the Association is attached to the Declaration of Condominium as EXHIBIT "3" therein.

9. The facilities at MOON BAY are complete and ready for occupancy.

10. MOON BAY shall provide the following wholly-owned recreational facilities:

(a) A swimming pool located between Building B and Building C, being approximately 1,200 square feet in size, having a depth of 3 feet at the shallow end to 9 feet at the deepest point, and which facility shall have the capacity of approximately 60 persons.

(b) A children's wading pool adjacent to the aforementioned swimming pool, of approximately 500 square feet in size, having a depth of 2 feet, and which facility shall have a capacity of approximately 35 children.

(c) A pool deck area surrounding the swimming pools of approximately 4,000 square feet, having a capacity of approximately 200 persons, and which shall contain outdoor furniture, planters, and a shuffleboard.

(d) A recreation building (clubhouse) located adjacent to the swimming pools, containing a total area of approximately 1,800 square feet, and which shall include the following:

(1) A social area of approximately 1,000 square feet, having a capacity of approximately 70 persons.

(2) Men's and women's bathrooms containing a sauna and dressing areas, each of which is approximately 200 square feet, and having a capacity of approximately 15 persons each.

(3) A storage area of approximately 100 square feet and kitchen area of approximately 100 square feet and having a capacity of 4 persons.

(e) An observation sun deck located on top of the clubhouse roof, consisting of approximately 2,000 square feet, and which shall have a capacity of approximately 100 persons.

(f) A boat ramp located west of and adjacent to Buildings B and C, consisting of approximately 1,200 square feet and which shall extend into Blackwater Sound a minimum of 10 feet.

(g) Two (2) tennis courts of approximately 10,000 square feet, having a capacity of approximately 8 persons and which shall be located between Buildings A and B.

11. It is represented that the minimum amount that will be expended for the personal property to be installed in and furnished to the common elements, shall be the sum of \$2,000.00.

12. The recreational facilities referred to above are currently available for use by apartment owners.

13. All of the recreational facilities referred to above shall be owned by the Association.

14. The cost for the operation and maintenance of the recreational facilities are included within the maintenance sum charged the Apartment Owners by the Association.

15. The following is a brief summary of the restrictions concerning the use of the Condominium Apartments which have been incorporated herein for the mutual benefit of all Apartment Owners. For a full review of these restrictions, please see EXHIBIT "6" of the Declaration of Condominium.

(a) All Apartments shall be used for residential purposes only.

(b) No nuisance, nor any use or practice which is the source of an annoyance to residents, shall be allowed on the Condominium Property.

(c) Pets shall be permitted provided that the maintenance of such pets shall not, in the sole discretion of the Association, constitute a nuisance.

(d) No unlawful use shall be made of the Condominium Property or any part thereof.

(e) The owner of any Unit is permitted to lease his Unit, except that any such lease shall not relieve the Unit Owner of his obligation as provided in the Condominium Documents.

(f) No Apartment Unit, whether owned or leased, may be used for commercial purposes.

(g) The Board of Directors may adopt and promulgate rules and regulations concerning the use and occupancy of the Units which shall be enforceable against and binding upon all Owners and Occupants.

(h) MASSMUTUAL shall have and retain the right to use and show as Model Unit, or Model Units, any Units in the Condominium Property owned by MASSMUTUAL and display such signs as are necessary in reasonably appropriate places on the Condominium Property.

16. Telephone service will be supplied by Southern Bell Telephone and Telegraph Company. Florida Key Aqueduct Authority will supply water. Electricity will be supplied by Florida Key Electric Company. Sewage and waste disposal will be provided by on the site sewer treatment plant.

17. There is no Management Agreement associated with this Condominium.

18. The manner in which the apportionment of common expenses has been determined is by utilizing a fraction, the numerator of which is the square footage contained in a particular unit, and the denominator of which is the total square footage of all units. With respect to Boat Slips, the manner in which the apportionment of common expenses has been determined is by utilizing a fraction, the numerator of which is the sale price of the particular Boat Slip and the denominator of which is the gross sales price of all units in the Condominium.

19. The estimated monthly and annual expense for the Association, and a schedule of the Apartment Owners' expenses, is as set forth on EXHIBIT "2" of the Declaration of Condominium. With the exception of payments for utilities and real estate taxes assessed against individual Units, there are no items of expense contemplated to be required to be payable by the apartment owners to persons or entities other than the Association. The total estimated monthly and annual expense is as stated in the budget. There is no rent payable to the Association or to other parties for recreation or other commonly used facilities. The estimated operating budget is for the first annual accounting period of the Association.

20. At the time of the Closing, the Buyer shall be required to pay two (2) months apportionment of common expenses as estimated in the annual budget in effect at the time of closing which shall be payable to the Association as an initial deposit to the Association. MASSMUTUAL shall pay for the State documentary stamps on the Deed, and the surtax on the Deed, and the recordation of the Deed of conveyance. MASSMUTUAL is also making available financing which will contain such terms as are customary by Savings and Loan Associations doing business in Dade and Monroe Counties, Florida.

21. The Developer of MOON BAY, A CONDOMINIUM, was MOON BAY, INC., a Florida corporation. The present owner is MASSMUTUAL, a real estate investment trust organized under the laws of Massachusetts, with its principal offices at 1295 State Street, Springfield, Massachusetts 01111. MASSMUTUAL was formed in 1970, and its total assets, as of October 31, 1976, were \$209,800,000.00. The Investment Advisor to MASSMUTUAL is Massachusetts Mutual Life Insurance Company, which was founded in 1851 and is the tenth largest life insurance company in the United States. The chief operating officers of MASSMUTUAL are:

(a) JAMES R. MARTIN (Age 56) is Chairman and a Trustee of MASSMUTUAL (since June 1970). Mr. Martin was President and Chief Executive Officer and Director of Massachusetts Mutual Life Insurance Company from 1968 to 1974. He now serves as Chairman of the Board and Chief Executive Officer of the Life Insurance Company. As such, he has been responsible for the overall direction, policies, and operations of the Life Insurance Company since 1968. Mr. Martin is also Chairman of the Board and Director of MASSMUTUAL CORPORATE INVESTORS, INC. (since 1971), MASSMUTUAL INCOME INVESTORS, INC. (since 1972), and MASSMUTUAL ECONOMIC & REALTY RESEARCH, INC. (since 1973). He holds an A. B. from the University of Illinois, 1940.

(b) EDWARD S. KULIK (Age 50) is President and a Trustee of MASSMUTUAL (since June 1970). Mr. Kulik was Second Vice President of the Massachusetts Mutual Life Insurance Company from 1968 to 1970. As such, he was responsible for carrying out the policies of the Mortgage Loan Department of the Life Insurance Company. Mr. Kulik served as Vice President (1970 - 1975) and (since 1975) is the Senior Vice President in charge of the Real Estate Investment Division of the Life Insurance Company. As such, he was and is responsible for the policies and operations of the mortgage loan and real estate investment activities of the Life Insurance Company. Mr. Kulik is also President and Director of MASSMUTUAL REALTY DEVELOPMENT CORPORATION (since 1970) and a Director of MASSMUTUAL ECONOMIC & REALTY RESEARCH, INC. (since 1973). Mr. Kulik has a B.S. in Business Administration from the University of Connecticut, 1950.

(c) RICHARD R. HARTMAN (Age 49) is Vice President and Treasurer of MASSMUTUAL (since June 1970). Mr. Hartman was Second Vice President of the Securities Division of the Life Insurance Company from 1966 to 1971. From 1968 to 1971 he was responsible for investment strategy and development of new investment opportunities. Mr. Hartman served as Second Vice President (1971 - 1975) and (since 1975) is a Vice President of the Real Estate Investment Division of the Life Insurance Company. As such, he is chief operating officer of the Trust; from 1971 to 1974 his duties also included responsibility for development of potential real estate equity investments for the Life Insurance Company and the Trust. Mr. Hartman is also a Director of MASSMUTUAL REALTY DEVELOPMENT CORPORATION (since 1972) and MASSMUTUAL ECONOMIC & REALTY RESEARCH, INC. (since 1973). He holds an A.B. in Business Administration and an M.C.S. in Finance, both from Dartmouth College, 1946 and 1948.

(d) JOHN S. SWART (Age 34) was Manager of MASSMUTUAL from 1973 to 1974 and is now Vice President and Manager of the Trust (since 1974). He has been responsible since 1973 for supervising internal operations, investor and bank relations, and planning for future actions of MASSMUTUAL. Mr. Swart was a Real Estate Research Analyst, Mortgage Loan Analyst, of the Life Insurance Company from 1972 to 1973. Prior to that, Mr. Swart was a student (1970 - 1972) and a U.S. Naval Officer (1969 - 1970). He has a B.S. and M.B.A. degree from University of Massachusetts, 1963 and 1972 and a Masters in Forestry from Yale University, 1964.

(e) ALMON P. HUNTER, JR. (age 54) is Vice President of MASSMUTUAL (since February 1972) and an M.A.I. Mr. Hunter was Superintendent of Mortgage Loans of the Life Insurance Company from 1968 to 1970, Superintendent of Real Estate Investment of the Life Insurance Company from 1970 to 1971, Associate Director of the Real Estate Investment Division of the Life Insurance Company in 1971 and Director of the Real Estate Investment Division of the Life Insurance Company from 1971 to 1974. Until 1970, Mr. Hunter was responsible for a portion of the mortgage loan production for the Life Insurance Company and the supervision of certain field offices. From 1971 to 1974 Mr. Hunter had overall responsibility for mortgage loan production for the Life Insurance Company and the Trust. Mr. Hunter serves now as Vice President of the Real Estate Investment Division of the Life Insurance Company. As such, he is responsible for real estate equity investments for the Life Insurance Company and the Trust. Mr. Hunter is also Senior Vice President of MASSMUTUAL REALTY DEVELOPMENT CORPORATION (since 1973). He has a B.S. in Business Administration from Boston University, 1942.

(f) DUDLEY N. HARTT (Age 60) is Secretary of MASSMUTUAL (since 1970). Mr. Hartt was Assistant General Counsel of the Life Insurance Company from 1965 to 1974. He serves now as Second Vice President and Associate General Counsel of the Life Insurance Company (since 1974). As such, he supervises the legal aspects of the Life Insurance Company's investment and securities activities and acts as legal advisor to MASSMUTUAL and two affiliate investment companies (MASSMUTUAL CORPORATE INVESTORS, INC., and MASSMUTUAL INCOME INVESTORS, INC.). He has an A. B. from Harvard University, 1937, and an LL.B. from the University of Virginia, 1940.

(g) DONALD J. BEDFORD (Age 41) is Controller (since May 1971) and Assistant Secretary (since November 1971) of MASSMUTUAL. Mr. Bedford is the principal accounting officer of MASSMUTUAL. He was Accountant for MASSMUTUAL from 1970 to 1971. He is a Magna Cum Laude graduate of Western New England College, 1963, with a B.B.A. in Accounting.

22. MOON BAY, A CONDOMINIUM, will be managed by MOON BAY CONDOMINIUM, INC., a Florida corporation. Unit owners will automatically become members of this corporation. The chief operating officers of MOON BAY CONDOMINIUM, INC., are:

(a) RALPH M. CARESTIO, JR. (Age 33). Mr. Carestio is presently Director of Research and Administration with the Real Estate Investment Division of the Life Insurance Company. He is President and Chief Executive Officer of MASSMUTUAL ECONOMIC AND REALTY RESEARCH, INC. He received a B. S. degree in Education in 1965 from Buffalo State College in Buffalo, New York, and received an M. A. degree in Geography from the University of Buffalo in 1967. Mr. Carestio received a National Science Foundation Fellowship in 1967 to do Post Graduate work at Ohio State University and attended there from 1967 to 1968. Before joining the Life Insurance Company, he was the Assistant Vice President with the Real Estate Research Corporation in Washington, D. C. In June 1974, he was made a Senior Officer of the Life Insurance Company.

(b) ROBERT P. HYL A (Age 34). Mr. Hyla is Associate Director of Research and Planning with the Real Estate Investment Division of the LIFE COMPANY. He received a Bachelor of Arts degree in Geography in 1965 from the University of Buffalo and did postgraduate work in urban planning at the same University. Prior to joining the LIFE COMPANY he was Director and Chief Operations Officer of MASSMUTUAL ECONOMIC AND REALTY RESEARCH and from 1972 to 1975 was Assistant Director of Corporate Research for the ROUSE COMPANY.

(c) DUDLEY N. HARTT, JR. (See Paragraph 21(f)).

(d) JOHN S. SWART (See Paragraph 21(d)).

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DECLARATION OF CONDOMINIUM
OF
MOON BAY CONDOMINIUM

Oct 2 2 41 PM '78

ARTICLE I

SUBMISSION STATEMENT:

MOON BAY, INC., a Florida corporation, (hereinafter sometimes referred to as the "Developer"), hereby states and declares that it is the owner of the fee simple title to the real property described as EXHIBIT "1" attached hereto and made a part hereof and hereby declares said real property to be Condominium Property and does hereby submit the same to Condominium Ownership pursuant to Chapter 711, Florida Statutes, the Condominium Act, as amended (hereinafter referred to as "the Condominium Act"), upon and subject to the terms, conditions restrictions, reservations and limitations hereinafter set forth.

ARTICLE II

NAME:

The name by which this Condominium is to be known and identified is MOON BAY, A CONDOMINIUM.

ARTICLE III

DEFINITIONS:

As used in the Declaration of Condominium and Exhibits attached hereto, and all Amendments thereof, unless the context otherwise requires, the following definitions shall prevail:

(A) Declaration, or Declaration of Condominium, or Enabling Declaration, means this instrument as it may be from time to time amended.

(B) "Association" or "Condominium Association" means MOON BAY CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, said Association being the entity responsible for the operation of the Condominium Property and this Condominium.

(C) By-Laws mean the By-Laws of the Association as they exist from time to time.

(D) Common Elements means the portions of the Condominium Property not included in the Units, including but not limited to: easements through Units for conduits, pipes, ducts, plumbing, wiring, and other facilities for the furnishing of utility service to Units and Common Elements, and easements of support in every portion of a Unit which contributes to the support of the improvements. Each of the Unit Owners shall own an undivided interest in the Common Elements and Limited Common Elements and that undivided interest, stated as the Percentage of such Ownership of each Unit Owner, is set forth in EXHIBIT "2", attached hereto and made a part hereof.

(E) Limited Common Elements means and includes those common elements which are reserved for the use of the Owner or Owners of certain Units to the exclusion of all Owners of other Units, including but not limited to all of the numbered parking spaces described in EXHIBIT "3".

(F) Condominium means that form of ownership of Condominium Property under which units of improvements are subject to ownership by one or more Owners, and there is appurtenant to each Unit, as a part thereof, an undivided share in the Common Elements.

(G) Condominium Act means and refers to the Condominium Act of the State of Florida (Chapter 711 of the Florida Statutes), as the same may be amended from time to time.

(H) Common Expenses means the expenses for which the Unit Owners are liable to the Association.

(I) Common Surplus means the excess of all receipts of the Association from this Condominium including, but not limited to, assessments, rents, profits, and revenues on account of the Common Elements, over and above the amount of common expenses of this Condominium.

(J) Condominium Property means and includes the land in a Condominium, whether or not contiguous, and all improvements thereof, and all easements and rights thereto, intended for use in connection with the Condominium and, where the context so requires or admits, "Condominium Property" or "the Condominium" or "this Condominium" shall mean the property described on EXHIBIT "1" hereto, being the property submitted to a condominium form of ownership by the Declaration.

(K) Assessment means a share of the funds required for the payment of Common Expenses which from time to time is assessed against the Unit Owners, and owners of Boat Slips.

(L) Condominium Unit, or Unit, or Apartment Unit is a Unit as defined in the Condominium Act, referring herein to each of the separate and identified Units delineated in EXHIBIT "3", including such Unit's share of the Common Elements.

(M) Unit Owner, or Owner of a Unit, or Owner or Apartment Unit Owner, means the owner of a Condominium Unit.

(N) Boat Slip means and includes those dock spaces located in the Marina area west of and adjacent to Buildings B and C as delineated in EXHIBIT "3", including such Boat Slip's share of the Common Elements. For purposes of this Declaration of Condominium, Boat Slips and the ownership thereof, shall be treated as separate and distinct from that of Condominium and Apartment Units, unless otherwise expressly provided.

(O) Developers means MOON BAY, INC., a Florida corporation, its successors and assigns.

(P) Occupant means the person or persons, other than the Unit Owner, in lawful possession of a Unit.

(Q) Condominium Documents means those documents specified in ARTICLE IV hereof, as the same may be amended from time to time, and all Exhibits thereto.

(R) Recreational Facilities means that area referred to as such in the Plot Plan, Survey and Graphic Description of the improvements as set forth in EXHIBIT "3".

(S) Unless the context otherwise requires, all other terms used in this Declaration shall be assumed to have the meanings attributed to said terms by Florida statute 711.03 of the Condominium Act.

(T) Institutional First Mortgage is defined to mean a first mortgage originally executed and delivered to a Bank, Savings and Loan Association, Insurance Company, Pension Fund, or Real Estate Investment Trust, an agency of the United States Government, Mortgage Company, Savings Bank, or other similar entity creating a first mortgage lien on a Unit and on any interest appurtenant to such Unit. For purposes of this Declaration of Condominium, the Developer shall be considered an Institutional First Mortgagee, and any mortgage held by the Developer, which is a lien against any of the Units in the Condominium shall be considered an Institutional First Mortgage.

(U) Institutional First Mortgagee is defined to mean any entity as described in subparagraph "T" above, holding a first mortgage lien on a Unit and on any interest appurtenant to such Unit.

(V) Utility Services as used in the Condominium Act and with reference to this Condominium, and as used in the Declaration and By-Laws, shall include but not be limited to telephone, gas, electric power, water and sewerage and garbage disposal.

ARTICLE IV

CONDOMINIUM DOCUMENTS:

The documents by which the Condominium regime will be established are as follows:

(A) This Declaration of Condominium, hereinafter called "Declaration," which sets forth the nature of the property rights in the Condominium Property and the covenants running with the land which govern those rights. All of the other Condominium Documents shall be subject to the provisions of this Declaration.

(B) A Plot Plan Survey, and Graphic Description of the improvements on the property submitted pursuant to the provisions of Chapter 711 Florida Statutes, duly certified as required under said Act, which is marked EXHIBIT "3".

(C) Articles of Incorporation of the Association, which is marked EXHIBIT "4".

(D) By-Laws of the Association, which is marked EXHIBIT "5".

(E) Rules and Regulations of the Condominium which are marked EXHIBIT "6".

(F) Form of Special Warranty Deed by which the Developer will convey particular Units and appurtenances thereto, in the Condominium, to purchasers thereof, which is marked EXHIBIT "7".

(G) Proposed Operating Budget for the Condominium, which is marked EXHIBIT "8".

(H) Receipt, Acceptance and Waiver, which is to be executed by the Unit Owners at the time of acquisition of the title to the Unit, and which is marked EXHIBIT "9".

(I) Form of Agreement of Purchase and Sale, which is marked EXHIBIT "10".

ARTICLE V

DEVELOPER'S UNITS, PRIVILEGES:

(A) The Developer is irrevocably empowered, notwithstanding anything herein to the contrary, to sell, mortgage and/or rent Units to any persons approved by it. The Developer shall have the right to transact on the Condominium Property any business necessary for the offering for sale or rental and/or the sale or rental of Units, and Boat Slips, including but not limited to the right to maintain models, have signs for sales or rentals and otherwise retain employees in its office, use of the Common Elements and to show Units and Boat Slips. Any sales office, signs, fixtures or furnishings or other tangible personal property belonging to the Developer shall not be considered Common Elements and shall remain the property of the Developer.

In the event there are unsold Units, or Boat Slips, or the Developer re-acquires any Units or Boat Slips, the Developer retains the right to be the Owner thereof and to sell, mortgage and/or rent said Units or Boat Slips without the necessity of obtaining the approval of the Association and without the payment of any transfer, leasing, or other type or form of fee or charge.

(B) The Developer retains the right to elect a majority of the members of the Board of Directors of the Association until such time as three (3) years after sales by the Developer have been closed on Fifty Per Cent (50%) of the Units that will be operated ultimately by the Association; or, three (3) months after sales have been closed by the Developer on Ninety Per Cent (90%) of the Units that will be operated ultimately by the Association; or when all of the Units that will be operated ultimately by the Association have been completed and some of them have been sold and none of the others are being offered for sale by the Developer in the ordinary course of business, whichever shall occur first. The Developer shall be entitled to elect not less than one (1) member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business any Units in the Condominium Association, provided that such right may be waived by the Developer at its sole option. For purposes of this subparagraph (B), Developer shall mean Developer, its successors and/or assigns.

(C) The Developer's liability for common expenses will be limited to (and Developer will pay) a proportionate share of the "actual current expenses" of the Condominium Association on all of the Units owned by the Developer, said proportionate share to be the percentage of the Common Expenses for which all such units are responsible,

as reflected on EXHIBIT "2". "Actual current expenses" shall mean and include only those expenses paid for by the Condominium Association each month for services, materials or other items actually consumed or utilized during the month within which payment is made of the month preceding or following such month, plus a pro rata share of a reasonable reserve for annual taxes and insurance premiums. "Actual current expenses" will not include any other expenses or expenditures, such excluded items specifically including but not being limited to any prepayments or expenses or reserves for capital improvements or betterments. Developer will be billed and will pay for its share of common expenses monthly, in arrears. This limitation upon payment by the Developer will terminate not later than the first day of the fourth calendar month following the month in which this Declaration is recorded, or the first day of the month of the third succeeding calendar month after the closing of the purchase and sale of any condominium unit within the Condominium to a Unit Owner who is not the Developer, the Nominee of the Developer, or a substitute or alternative Developer, whichever shall be the later date; provided that the Developer shall be obligated to pay that portion of the common expenses incurred during that period which exceed the amount assessed against other Unit Owners.

(D) The Developer reserves the right to change the location, design and boundaries between all Units which it may own and change their respective shares in the Common Elements, provided, however, that such changes shall not affect the percentage of interest of other Unit Owners, as set forth in EXHIBIT "2". If the Developer shall make any such changes, such changes shall be reflected by an amendment of this Declaration reflecting such alteration by the Developer and shall only be required to be signed and acknowledged by the Developer and members as to the changed Units and need not be approved by the Association, Unit Owners, or any other persons whomsoever.

ARTICLE VI

OWNERSHIP OF CONDOMINIUM UNITS, MAINTENANCE AND ALTERATIONS:

Each Condominium Unit shall include the following interest, rights, easements and appurtenances:

(A) REAL PROPERTY. Each Condominium Unit together with all appurtenances thereto, shall constitute a separate parcel of real property which shall be owned in fee simple and which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property independently of all other parts of the Condominium Property, subject only to the provisions of the Condominium Documents and shall have as an appurtenance thereto an undivided share in the Common Elements as set forth in EXHIBIT "2" attached hereto and made a part hereof by reference.

(B) POSSESSION. Each Unit Owner shall be entitled to the exclusive possession of his Unit.

(C) UNIT BOUNDARIES. Each Unit shall include that part of the Condominium Building containing the Unit that lies within the following boundaries:

(1) UPPER AND LOWER BOUNDARIES. The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:

(a) Upper Boundary: The horizontal plane of the unfinished ceiling surface.

(b) Lower Boundary: The horizontal plane of the unfinished surface of the floor.

(2) PERIMETRICAL BOUNDARIES. The perimetrical boundaries of each Unit shall be the following boundaries extended to an intersection with the upper and lower boundaries.

(a) Exterior Building Walls. The intersecting vertical planes adjacent to and which include the unfinished surface of the interior of the outside walls of the Condominium Building bounding a Unit and when there is attached to the Building a balcony, loggia, lanai, Florida room, canopy, stairway or other portion of the Building appurtenant only to the Unit being bounded, such boundaries shall be the intersecting vertical planes adjacent to and which include all of such structures and fixtures thereon.

(b) Interior Building Walls: The vertical planes of the interior unfinished surfaces of walls bounding a Unit extended to intersections with other perimetrical boundaries.

(c) The Owner of a Unit in the Condominium Property shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors or ceilings surrounding his Unit, nor shall said Owner be deemed to own supporting columns, pipes, wires, conduits or other public utility lines running through the walls of the said Unit, which are utilized for more than one (1) Unit, and said items are by this Declaration hereby made a part of the Common Elements. Said Owner, however, shall be deemed to own the interior walls and partitions which are contained within said Owner's Unit, provided, however, that such walls are not used for the support of the building, and, also, shall be deemed to own the inner decorated and/or unfinished surfaces of the perimeter walls, floors, ceilings, including plaster, paint, wallpaper, etc. contained in said Unit.

(D) APPURTENANCES. The ownership of each condominium Unit shall include, and there shall pass with each Condominium Unit as appurtenances thereto, whether or not separately described, all of the rights, title and interest of a Unit Owner in the Condominium Property which shall include but not be limited to the right to use in common with the other Unit Owners the Common Elements as defined in subparagraph (D) of ARTICLE III herein. The ownership of each Unit shall include and there shall pass with each Unit as appurtenances thereto, the title and interest of a Unit Owner in the Condominium Property and in the Common Surplus. Each Unit shall have an undivided share in and to the common areas, facilities and elements of the Condominium and each Unit shall bear a share of the common expenses of the Condominium in accordance with the percentage of ownership attributable to each Unit as set forth in EXHIBIT "2" attached hereto.

In the event of the termination of the Condominium, each Owner's interest in the Common Elements, areas and facilities, and in the common surplus, and in the common expense, shall be in proportion to said Owner's interest in the Common Elements set forth in EXHIBIT "2".

(E) EASEMENT TO AIR SPACE. The appurtenances shall include an easement for the use of the air space occupied by the Unit as it exists at any particular time and as the Unit may be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is permanently vacated.

(F) CROSS EASEMENTS. The appurtenances shall include the following easements from each Unit Owner to each other Unit Owner and to the Association.

(1) Ingress and Egress: Easements through the Common Elements for ingress and egress.

(2) Maintenance, Repair and Replacement: Easements through the Units and Common Elements as may reasonably be required for maintenance, repair and replacement of the Units and Common Elements. Such access to the Units shall be only during reasonable hours except that access may be had at any time in case of emergency.

(3) Support: Every portion of a Unit contributing to the support of any building on the Condominium Property shall be burdened with an easement of support for the benefit of all other Units and Common Elements in the building.

(4) Utilities: Easements through the Units, and Common Elements for conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services to other Units and the Common Elements, provided, however, that such easements through a Unit shall be only according to the plans and specifications for the building in which the Unit is located unless approved in writing by the Owner of the Unit.

(G) MAINTENANCE. The responsibility for the maintenance of a Unit shall be as follows:

(1) By the Association: The Association shall maintain, repair and replace at the Association's expense:

(a) All portions of any Unit, except interior wall surfaces not contributing to the support of the building, which portions shall include but not be limited to the roof, outside walls of the Condominium, interior boundary walls of Units and loadbearing columns.

(b) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portions of the Unit contributing to the support of the building or within interior boundary walls; and all such facilities contained within a Unit which service part or parts of the Condominium other than the Unit within which such facilities are located.

(c) All damage to a Unit caused by such maintenance shall be promptly repaired by and at the expense of the Association.

(d) The Association has and shall have all powers necessary to discharge this responsibility, and may exercise such powers

exclusively if it so desires, or may delegate a part of all such powers as elsewhere provided for in the Condominium Documents.

(2) By the Unit Owner: The responsibility of each Unit Owner shall be as follows:

To maintain in good condition and repair his Unit and all interior surfaces within his Unit and the entire interior of his Unit, (including where applicable, a storage room patio, terrace, balcony, and any screening thereof regardless of whether said area is an interior part of a Unit or an exterior part of a Unit or a Limited Common Element for the exclusive use of a Unit); and to maintain and repair the fixtures and equipment therein, which includes but is not limited to the following, where applicable: air-conditioning and heating units, including condensers and all appurtenances thereto wherever situated; refrigerators, hot water heaters, stoves and all other appliances; drains, plumbing fixtures and connections; sinks, all plumbing and water lines within the Unit; electric panels, electric wiring and electric outlets and fixtures within the Unit; interior doors of any type or nature, including sliding glass doors, where applicable, windows, screening and glass; and where applicable, the screening on a patio, terrace or balcony; all exterior doors, including sliding glass doors including the glass of same and the operating mechanism, (except the painting of the exterior of exterior doors shall be a common expense of the Condominium); and pay for all his utilities - i.e., electric, water, sewage and telephone. Garbage disposal shall be a part of the common expenses if billed to the Condominium as to all Units in the Condominium; however, if individual bills are sent to each Unit by the party furnishing such service, each Unit Owner shall pay said bill for his Unit individually. Where a Unit is carpeted, the cost of maintaining and replacing the carpeting shall be borne by the Owner of said Unit.

(H) ALTERATION AND IMPROVEMENT:

(1) No Unit Owner or Owner of a Boat Slip shall without first obtaining the prior written approval of the Association make any alteration or addition in or to any portion of his Unit or Boat Slip or of the Condominium Property, or remove any portion thereof, or make any addition thereto, or do any work which would jeopardize the safety or soundness of the Condominium or impair any easement.

(2) No Unit Owner or Owner of a Boat Slip shall without first obtaining the prior written approval of

the Association make any alteration, modification, decoration, repair, replacement, enclosure or change of the Common Elements, Limited Common Elements, dock area, balcony or terrace, or to the exterior of any door or door-jamb which opens into any of the Common Elements or common areas of the Condominium Property, or any exterior hallway lights, including but not limited to the erection of any awning, storm shutters, or other device, window covering, fixtures, paintings, or wall coverings, or any other changes or alterations which would in any way or manner whatsoever change the physical and visual appearance of the Unit or Boat Slip, including any balcony which is a part of the Unit.

(I) PARKING SPACES:

(1) The Developer shall have the right to designate parking spaces to each individual Unit Owner and the parking spaces so designated, even though a Limited Common Element, shall not be subject to redesignation by the Board of Directors and said parking spaces so designated by the Developer shall upon conveyance of the Condominium Unit by the Unit Owner, likewise pass to the new Unit Owner. The parking space shall at no time be conveyed separate and apart from the Condominium Unit. Parking spaces may be designated by the Developer as aforesaid, by a separate instrument in non-recordable form.

(2) Notwithstanding the fact that the parking spaces are reserved for the exclusive use of a particular Condominium Unit and are Limited Common Elements, they shall be maintained, repaired, replaced and assessed for such maintenance, repair and replacement as and in the manner that Common Elements are maintained, repaired, replaced and assessed.

(3) The Developer shall have the right to sell or lease any parking spaces which have not been designated to an individual Unit Owner, including without limitation the right to sell or lease such parking spaces to Owners of Boat Slips.

(J) IDENTIFICATION OF BUILDINGS, UNITS AND BOAT SLIPS: This Condominium consists of three (3) buildings designated by the names "BUILDING A", "BUILDING B", and "BUILDING C", respectively, as reflected on the Plot Plan, Survey and Graphic Description of the improvements, as more fully set forth on EXHIBIT "3". Each Condominium Unit is described and located on EXHIBIT "3" and is designated by an arabic number. Buildings may have similar Unit Numbers, and, therefore, Units are further identified by referring to the Building Number, e.g.:

Unit No. 101, Building B. Boat Slips are described and located on EXHIBIT "3" and are designated by an Arabic number preceded by the letters BS, e.g.: BS1.

(K) PARTITION: No action for partition may be initiated by or shall lie in favor of any Owner of a Unit so long as the Condominium is in existence.

ARTICLE VII

ASSESSMENTS:

Assessments against the Unit Owners including Owners of Boat Slips, shall be made by the Association and shall be governed by the following provisions:

(A) SHARE OF EXPENSE, COMMON EXPENSE. The expense of operation and maintenance of the Common Elements shall be a Common Expense and shall be borne by the Condominium Unit Owners in accordance with the percentage of ownership attributable to each Unit as set forth in EXHIBIT "2" attached hereto. No Unit Owner shall have the right to withdraw or receive distribution of his share of the Common Surplus.

(B) LIABILITY OF UNIT OWNER. Each Unit Owner shall be liable for that share of the said Common Expense as specified in Paragraph (A) of this ARTICLE VII. Assessments and monthly installment payments thereof shall commence immediately upon the sale and conveyance of the Unit by the Developer to a Grantee other than a Developer's nominee, substitute or alternate Developer.

(C) LIABILITY OF DEVELOPER. The liability of the Developer with respect to its share of the Common Expenses for its unsold Apartment Units shall be as set forth in ARTICLE V, Paragraph (C).

(D) ASSESSMENT ROLL. The assessments for Common Expenses shall be set forth upon a roll of the Units which shall be available in the office of the Association for inspection by Unit Owners at all reasonable times. Such roll shall indicate for each Unit the name and address of the owner or owners, the assessments for all purposes, and the amounts paid and unpaid for all assessments.

(E) ASSESSMENTS FOR RECURRING EXPENSES. Assessments for recurring expenses for each account shall include the estimated expenses chargeable to each Unit Owner's account and a reasonable allowance for contingencies, deferred maintenance and reserves, less the unused fund balance credited to such account. Assessments shall be made for the calendar year annually in advance on December 1st preceding the year for which assessments are made. Such assessments shall be due in twelve (12) equal consecutive monthly payments,

payable on the first day of each month of the year for which the assessment is made, provided however, that upon default in the making of any such installment payment, the entire assessment for the current calendar year shall forthwith be due and payable, without notice.

(F) SPECIAL ASSESSMENTS. Special assessments shall include all other assessments as may be made by the Board of Directors from time to time to meet other needs or requirements of the Association in the operation and management of the Condominium, including but not limited to such items as capital expenditures and replacements. Any such special assessment in an amount exceeding \$250.00 per year per Unit which is not a recurring expense, shall not be levied without the prior approval of Owners owning at least Seventy-five Per Cent (75%) of the Condominium Units, provided, however, that any assessment levied under the provisions of ARTICLE X, for the purpose of reconstruction or repair by the Association of any damage to a Unit or to the Common Elements shall not require such consent; further, provided, however, that said assessment or assessments be made only if said damage is to be repaired or reconstructed, as provided in the Declaration of Condominium. Special assessments will be assessed against and borne by the Owners of the Units in the same manner as assessments for other Common Elements except that such special assessments shall be due and payable not later than thirty (30) days after notice thereof, or as otherwise determined by the Board of Directors of the Association.

(G) ASSESSMENT FOR LIENS. All liens of any nature, including but not limited to taxes and special Assessments levied by any governmental authority, which are a lien upon more than one Unit or on any portion of the Common Elements shall be paid by the Association as a Common Expense and shall be assessed against the Units in the same manner as are all other Common Expenses. Approval of the Condominium Association shall not be required for emergency assessments.

(H) ASSESSMENTS FOR EMERGENCIES. Assessments for emergencies of Common Expenses requiring immediate repair which cannot be paid from the assessment for recurring expenses, shall only be made after approval of the Board of Directors of the Condominium Association. After such approval by the Board of Directors, such emergency assessment shall become effective, and it shall be due thirty (30) days after notice thereof in such manner as the Board of Directors may require. Assessments for emergencies will otherwise be assessed

against and borne by the Owners of the Units in the same manner as other Common Expenses. Approval of the Condominium Association shall not be required for emergency assessments.

(I) LIABILITY FOR PAYMENT IN THE EVENT OF FORECLOSURE. In the event of foreclosure by an Institutional First Mortgagee of an Institutional First Mortgage encumbering a Unit, the Purchaser of such Unit at such sale, his successors or assigns, shall not be liable for the unpaid portion of assessments attributable to such Unit for the period prior to and ending with the date of the foreclosure sale, but such unpaid portion of the assessments shall be deemed to be a Common Expense, assessable against and collectible from the Unit Owners, excluding the purchaser, his successors or assigns. The foregoing provision shall also be applicable to the conveyance of a Unit to a First Mortgagee in lieu of foreclosure. The foregoing exemption for payment of assessments is in addition to and in no way restrictive of the additional exemptions granted herein to mortgagees under the provisions of ARTICLE X hereof.

(J) LIABILITY FOR ASSESSMENTS. The owner of a Unit and his grantees shall be jointly and severally liable for all unpaid assessments due and payable at the time of a conveyance but without prejudice to the rights of a grantee to recover from the grantor the amounts paid by the grantee therefor. Such liability may not be avoided by a waiver of either the grantor or grantee of the use or enjoyment of any Common Element or by abandonment of the Unit with respect to which the assessment is made. Except as provided in subparagraph (I) hereof, a purchaser of a Unit at a judicial sale, or a mortgagee acquiring title thereto by deed in lieu of foreclosure shall be liable for all assessments unpaid and due and payable when title is acquired and becoming due anytime thereafter.

(K) LIEN FOR ASSESSMENTS. Any unpaid portion of any assessment specified in paragraphs (E), (F), (G), and (H) of ARTICLE VII which is due shall constitute a lien upon:

(1) The Unit and all appurtenances thereto, which liens shall become effective upon the recordation of a claim of lien by the Association in the Public Records of Monroe County, Florida, which claim of lien shall not be recorded until the payment is past due for at least ten (10) days. When recorded, this lien shall be effective against the Owner of the Unit(s) against which the claim of lien has been filed as well as against all parties having constructive knowledge thereof, by virtue of such recordation, and,

(2) All tangible personal property located in the Unit except that such lien shall be subordinate to bona fide Institutional First Mortgages,

(L) COLLECTIONS.

(1) Assessments and installments paid on or after ten (10) days after due date shall bear interest at the rate of Ten Per Cent (10%) per annum from due date until paid. All payments shall be applied first to interest, if accrued, and then to the assessment payment first due.

(2) The Association may enforce collection of any delinquent assessment by suit at law for the purpose of securing money judgments without in any way waiving any lien which secures the same in such suit, the Association may recover, in addition to any assessments due it, interest thereon at the rate of ten per cent (10%) per annum, and any and all costs incurred in connection with such suit, including reasonable attorney's fees.

(3) In addition to any other remedies available to the Association, the Association may foreclose its lien for delinquent assessments in a suit brought in the name of the Association in like manner as the foreclosure of a mortgage on real property. In any such foreclosure, the Owner shall be required to pay a reasonable rental for the Condominium Unit, which rental is hereby declared to be no less than the monthly assessments normally chargeable against said Owner, including any assessment for Common Expenses assessed against said Owner. The Association, in such foreclosure, shall be entitled to the appointment of a receiver to collect said rental for the Association. In addition thereto, the Association shall be entitled to recover in said foreclosure all costs incurred in connection with such suit, including reasonable attorney's fees and appellate attorney's fees incurred by it in connection therewith. The Association may bid on the Unit at said foreclosure sale and thereafter may acquire, hold, lease, mortgage and/or convey the same.

(M) UNPAID ASSESSMENTS. In the event that either any assessment or any installment thereof levied against any Unit Owner shall remain unpaid for ninety (90) days or more, then so long as such delinquent assessments and/or installments are not received by the Association, such unpaid assessments and/or installments shall be deemed to be a common expense and treated in a manner consistent with the provisions for the assessment and collection of common expenses.

(N) CONTINUING OBLIGATION. Nothing contained herein shall be deemed to discharge a Unit Owner from his obligation to pay any assessment owed to the Association.

(O) LIMITATION OF LIABILITY. The liability of a Unit Owner for Common Expenses shall be limited to amounts for which he is assessed from time to time in accordance with the Condominium Act, this Declaration of Condominium and the By-Laws.

ARTICLE VIII

OWNERSHIP OF THE COMMON SURPLUS AND OF THE COMMON ELEMENTS:

The Common Surplus, the Common Elements and the Limited Common Elements shall be owned by the Condominium Owners in accordance with the percentage of ownership attributable to each Unit as set forth in EXHIBIT "2" attached hereto.

ARTICLE IX

THE OPERATING ENTITY:

(A) ADMINISTRATION. The Association will be responsible for the operation of the Condominium and shall have all of the powers, duties and obligations set forth in the Condominium Act, as well as all the powers and duties as are granted to and obligations imposed upon it by the Condominium Documents. Each Owner of a Condominium Unit, whether said Unit is acquired by purchase, conveyance, transfer by operation of law, or otherwise, shall be bound by the Condominium Documents.

(B) OPERATING PROCEDURES. The Association shall maintain accounting records according to good accounting practices, which records shall be open to inspection by Unit Owners at reasonable times, reasonable written summaries of which records shall be supplied at least annually by the Association to Unit Owners. Such records shall include:

(1) A record of all receipts and expenditures.

(2) An Account for each Unit which shall designate the name and address of the Unit Owner, the amount and due date of each assessment, the amounts paid upon the account and the balance due.

(C) MEMBERSHIP AND VOTING RIGHTS. Membership in the Association is automatic upon acquisition of ownership of a Condominium Unit and may not be transferred apart and separate from a transfer of the ownership of the Unit. Membership shall likewise automatically terminate upon sale or transfer of the Unit, whether voluntarily or involuntarily. There shall be one person with respect to each Unit who shall be entitled to vote at any meeting of the Association. Such person shall be known (and is hereinafter referred to) as "Voting Member".

If a Unit is owned by more than one person, the Owners of said Unit shall designate one of them as the Voting Member, or in the case of a Corporate Unit Owner, an Officer or employee thereof shall be the Voting Member. The designation of the Voting Member shall be made as provided by and subject to the provisions and restrictions set forth in the By-Laws of the Association. The total number of votes shall be equal to the total number of Units in the Condominium and each Condominium Unit shall have no more and no less than one (1) equal vote in the Association. If one Owner owns more than one (1) Unit, he shall be entitled to one (1) vote for each Unit so owned. The vote of a Condominium Unit is not divisible.

(D) MANAGEMENT AGREEMENT. In order to facilitate the operation of the Condominium Property, and in order to maintain the Condominium and the Common Elements, the Association shall have the right to enter into a Management Agreement with a Management Company. The fact that such a Management Agreement may be entered into with a Management Company shall in no way prevent the Association from terminating that contract in accordance with the applicable statutes, and entering into a Management Agreement with any other Management Company, nor is it intended to defeat any rights of the Association with respect to such Management Company which the Association may have under the laws of the State of Florida or under any Management Agreement.

(E) BOAT SLIPS. The ownership of a Boat Slip shall not entitle the Owner thereof to vote in the affairs of the Condominium Association, nor shall such ownership increase the vote which a Unit Owner would otherwise have in the affairs of the said Association.

ARTICLE X

INSURANCE:

The Association shall obtain liability insurance in such amounts as the Board of Directors may from time to time determine for the purpose of providing liability insurance coverage for the Common Elements of this Condominium, but in no event shall said coverage be less than limits of \$100,000/300,000. The Association shall collect and enforce the payment of that share of the premium for such insurance attributable to each Unit Owner, including Owners of Boat Slips, as an assessment in accordance with the provisions of ARTICLE VII hereof. The Owner of a Unit shall have no personal liability for any damages caused by the Association on or in connection with the use of the Common Elements. Each Unit Owner including Owners of Boat Slips, shall be liable for injuries or damage resulting from an accident in, on or about, his own Unit to the same extent and degree that the Owner of a

house would be liable for an accident occurring within the house, and shall be responsible for purchasing liability insurance to insure against the foregoing.

(A) PURCHASE OF INSURANCE. The Association shall keep insured the Condominium Property, including all improvements erected upon the Condominium Property, and all other insurable interests on the Condominium Property, including fixtures and personal property owned by the Association, and all Units contained therein, in and for the interest of the Association, all Unit Owners, including Owners of Boat Slips, and their mortgagees as their interests may appear, in an amount which shall be equal to the maximum insurable replacement value as determined annually by the insurance carrier or carriers, if such insurance is available, against (a) loss or damage by fire and hazards covered by a standard coverage endorsement, and (b) such other risks of a similar or dissimilar nature as are customarily covered with respect to buildings similar in construction, location and use to the buildings erected upon the Condominium Property. Because of the location of the Condominium Property, the Association is authorized to obtain and accept a policy with a deductible clause, but only if the Association cannot obtain reasonable coverage without such a clause; any and all such insurance, so purchased by the Association, shall be purchased from an insurer having a Best rating of not less than "AA".

The Directors shall have no liability to the Association, the Owners or any other person for the failure to obtain insurance without a deductible clause and/or for the failure to obtain insurance in the full amount of the coverage required hereunder if in good faith a majority of their whole number shall have determined that such insurance is not reasonably available.

(B) ASSURED AND LOSS PAYABLE. All casualty insurance policies purchased by the Association hereunder shall be for the benefit of the Association, all Unit Owners and their mortgagees as their interest may appear, and shall provide that all proceeds covering casualty losses of \$3,000.00 or less shall be paid to the Association. Losses in excess of \$3,000.00 shall be paid to a Trustee which shall be any Bank or Trust Company authorized to and doing business in Dade or Monroe County, Florida, designated by the Association and approved by a majority of the mortgagees of the Units in the Condominium Property (the term "majority" meaning the holders of debts secured by first mortgages, the unpaid balance of which is more than one-half of the unpaid principal balance of all first mortgages on said Units). Said Trustee is herein referred to as "Insurance Trustee". The Insurance Trustee shall not be liable

for the payment of premiums or the sufficiency of premiums, nor for the failure to collect any insurance proceeds. The Insurance Trustee shall be responsible only for monies which come into its possession and only for its willful misconduct, bad faith or gross negligence. The duty of the Insurance Trustee shall be to receive such proceeds as are paid to it and to hold the same in trust pursuant to the terms of a Trust Agreement between the Association and the Insurance Trustee, the terms of which Agreement shall not be inconsistent with any of the provisions herein set forth.

(C) PAYMENT OF PREMIUMS; TRUSTEE'S EXPENSES AND COLLECTION. All premiums for all insurance required to be carried by the Association, and all fees and expenses of the Insurance Trustee shall be deemed to be a part of the Common Expenses and shall be assessed by the Condominium Association against the Unit Owners in the manner consistent with the assessment and collection of Common Expenses generally.

(D) MANDATORY REPAIR. Unless there occurs actual or constructive total loss to the improvements on the Condominium Property, subject to the provisions hereinafter provided, the Association and the Unit Owners shall repair, replace and rebuild the damage caused by casualty loss as their interests appear and pay the cost of the same in full. All repairs or replacements made by either the Association or the Unit Owners shall be made in accordance with the original final plans for said improvements which plans shall be kept and shall remain available for such purpose in the office of the Association. In the event that the insurance proceeds are insufficient to repair, replace, and/or rebuild the damages caused by the casualty, the Association shall collect whatever additional monies are required for such repair, replacement and/or rebuilding by means of a special assessment. Such special assessment shall be assessed and collected in the manner provided for special assessments generally, and shall be treated in the manner set forth in subparagraph (F) of ARTICLE VII herein. The selection of the construction fund depository, the disbursing agent, as well as all disbursements from such construction fund, shall be subject to the approval of any Institutional Mortgagee.

(E) DETERMINATION OF DAMAGE AND USE OF PROCEEDS.

(1) Immediately after a casualty causing damage to any part of the Condominium Property, the Association shall obtain reliable and detailed estimates of the cost to repair and replace the damaged property to a condition the same as the condition that existed prior to the

casualty loss. Upon receipt of such estimate or estimates, the Association shall immediately furnish a copy of each different estimate to each of the Unit Owners' provided, however, that if a casualty causes damage to a single Unit, then it shall be the responsibility of that Unit Owner to obtain estimates of the cost of replacement or repair as aforesaid. If the net proceeds of insurance are insufficient to pay the estimated cost of reconstruction and repair, the Association shall promptly, upon determination of deficiency, levy a special assessment against all Unit Owners in proportion to the Unit Owners' share in the Common Elements for that portion of the deficiency as is attributable to the cost of the restoration of the Common Elements and against individual Unit Owners for that portion of the deficiency related to damages to individual Units; provided, however, that if, in the opinion of the Association, it is impossible to determine accurately and adequately the portion of the deficiency relating to damages to individual Units, the Association shall levy the special assessment for the total deficiency against each of the Unit Owners, as a Common Expense, according to the percentages set forth in EXHIBIT "2" of this Declaration. The determination of the Board of Directors of the Association as to that portion of the deficiency to be assessed against individual Unit Owners and as to which individual Unit Owners are liable therefor shall be conclusive and binding.

(2) Unless there occurs actual or constructive total loss of the improvements on the Condominium Property, and as a result thereof the Unit Owners fail to elect to rebuild and repair as provided in Paragraph (F) below, both the net proceeds of all amounts collected by the Insurance Trustee and all funds collected by the Association from the special assessment provided for in Paragraph (D) and (E) of this Article shall be expended to repair, replace and/or rebuild any damages or destruction of the Condominium Property and the balance remaining, if any, shall be paid to the Unit Owners and their mortgagees as their interests may appear. The proceeds of insurance and the funds collected by the Association from the assessments as hereinabove provided shall be held by the Insurance Trustee and the Association in trust for the use and purposes herein provided. The Insurance Trustee shall have no obligation or duty to see that the repairs, reconstruction or replacements required hereunder are performed or accomplished, but such duty shall be the Association's.

(F) TOTAL DESTRUCTION. Should there occur actual or constructive total loss of the improvements on the Condominium Property, the Condominium Property shall not be reconstructed unless the Owners of two-thirds (2/3) of all of the Units shall agree thereto, in writing, within (60) days after notification of the Unit Owners by the Association as provided for in paragraph (E) (1) of this ARTICLE X of the casualty loss or damage. In the event such reconstruction is not approved as aforesaid, the Association shall direct the Insurance Trustee and the Insurance Trustee is and shall be authorized to pay proceeds of the insurance to the Unit Owners and their mortgagees as their interests may appear, and the Condominium Property shall be deemed to be removed from the provisions of the Condominium Act with the results provided for by Florida Statutes, Section 711.16, as amended. The determination not to reconstruct after casualty shall be evidenced by a certificate, signed by the President and Secretary of the Association, stating that the said sixty (60) day period has elapsed and that the Association has not received the necessary writings from the Owners of two-thirds (2/3) of the Units, upon which certificates the Insurance Trustee may rely.

(G) RIGHTS OF MORTGAGEES. If any Institutional First Mortgagee of any Condominium Unit shall require it, the Association shall, from time to time deposit in a savings account established for the purpose, or with the Insurance Trustee, sufficient monies in escrow to insure the payment of the casualty insurance premiums insuring the Condominium Property. A majority of such mortgagees as hereinabove defined may designate the Bank, Savings and Loan Association or Insurance Trustee as the depository of these funds and may determine the provisions of the escrow, but only one such escrow account shall be required. However, the Association shall not be required to fund this escrow more frequently than once a month nor deposit therein from month to month an amount greater than one-twelfth (1/12) of the reasonably estimated casualty insurance premium next due, per month. Should the Association fail to pay such premium when due, or should the Association fail to comply with other insurance requirements, of the Institutional First Mortgagee, said Institutional First Mortgagee shall have the right, at its option, to order insurance policies and to advance such sums as are required to maintain or procure such insurance, and to the extent of the money so advanced, said mortgagee shall be subrogated to the assessment and lien rights of the Association as against the individual Unit Owners for the payment of such item of Common Expense. The holder of any mortgage who in accordance with the provisions of such mortgage shall have the right to demand insurance proceeds in the event of a casualty loss to the property secured by said mortgage, waives the right to such proceeds if proceeds are used pursuant to this Declaration of Condominium to repair, replace or rebuild the property subject to the mortgage lien. However, nothing herein shall be deemed a waiver by the

mortgagee of its rights, if any to require that any surplus proceeds over and above the monies actually used for repair, replacement or reconstruction of the property subject to the mortgage, be distributed to the mortgagee and the Unit Owner as their interests may appear. Both the Unit Owner and holder of any Institutional First Mortgage on such Unit shall have the right to approve the plans and proposals for any repairs, reconstruction or replacements to the Unit or Units encumbered by its mortgage or mortgages, and no such repairs, reconstruction or replacements shall be begun or undertaken without such approval, which approval shall not be unreasonably withheld.

Notwithstanding anything contained in this ARTICLE to the contrary, an Institutional First Mortgagee shall always be entitled to receive, in reduction of its mortgage debt that portion of insurance proceeds apportioned to its mortgaged Unit in the same share as the share in the Common Elements appurtenant to such Unit, in the event: (a) Its mortgage is not in good standing and is in default; or (b) Insurance proceeds are not sufficient to complete restoration, reconstruction or repair and the Association has not made additional funds available for such purpose; or (c) It is determined to restore, repair or reconstruct the improvements in a manner or condition substantially different from that existing prior to the casualty and such Mortgagee has not consented in writing to such change or alteration.

(H) ASSOCIATION AS AGENT. The Association is hereby irrevocably appointed agent for each Unit Owner to adjust all claims arising under insurance policies purchased by the Association, and to execute releases therefor.

ARTICLE XI

TAXES:

(A) The Condominium Act provides that property taxes and special assessments assessed by municipalities, counties and other taxing authorities shall be assessed against the Condominium Units individually and not upon the Condominium Property as a whole. Such taxes, when assessed shall be paid by each Unit Owner, and this assessment shall be in addition to each Unit Owner's share of the Common Expenses.

(B) Whenever a tax is assessed against the Condominium Property as a whole instead of against each Condominium Unit, such tax shall be treated as a Common Expense and shall be borne by the Unit Owners in the proportions specified in EXHIBIT "2".

ARTICLE XII

USE RESTRICTIONS:

The use of the Condominium Property shall be in accordance with the following provisions:

(A) RESIDENTIAL USE. Each Unit shall be used only for residential purposes. The Association may promulgate such Rules and Regulations pertaining to the use and occupancy of the Units as it, in its sole discretion, deems necessary or desirable.

(B) BOAT SLIPS. Each Boat Slip shall be used solely for purposes of non-commercial boat dockage and purposes incidental thereto. The Association may promulgate such Rules and Regulations pertaining to the use of Boat Slips as it, in its sole discretion deems necessary or desirable.

(C) NUISANCES. No nuisance shall be allowed upon the Condominium Property nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium Property by its residents. Unit Owners and Occupants shall be permitted to keep pets provided that the maintenance of such pets in their Condominium Units shall not constitute a nuisance. It shall be the obligation of the Association to promulgate and enforce whatever rules and regulations it deems appropriate to prevent the abuse of the pet privilege by those Unit Owners and Occupants having pets. Any pet causing or creating a nuisance or disturbance shall be permanently removed from the Condominium Property forthwith upon written notice from the Board of Directors of the Association, acting through one of the duly elected Officers of the Association.

(D) LAWFUL USE. No immoral, improper, offensive, or unlawful use shall be made of the Condominium Property nor any part thereof; and all laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the Condominium Property shall be the same as the responsibility for the maintenance and repair of the property concerned.

(E) LEASING OR RENTING. The owner of any Condominium Unit is permitted to lease his Unit, except that any such lease shall not relieve the Unit Owner of his obligations as provided in the Condominium Documents. The lessee need not be approved by the Condominium Association; however, all such lessees must

execute those documents which the Association may reasonably require in order to insure that the rights of other Unit Owners shall not be derogated during the term of the lease and, also, to assume and agree to be bound by the Condominium Documents during the terms of their tenancy. Any Owner leasing or renting his Unit shall promptly notify the Board of Directors of the names of the persons occupying said Condominium Unit.

(F) COMMERCIAL USAGE. No Condominium Unit, or Boat Slip, whether owned or leased, may be used to conduct any trade or business, the conduct of which would require the license or certification from any municipal, county, state or federal agency or licensing authority.

(G) RULES AND REGULATIONS. The Board of Directors may adopt and promulgate Rules and Regulations concerning the use and occupancy of the Units and the Condominium Property and otherwise involving or concerning the Condominium, all of which Rules and Regulations will be enforceable against and binding upon all owners and Occupants. Initial Rules and Regulations of the Condominium have been adopted and are attached hereto as EXHIBIT "6", and may be amended from time to time by the Board of Directors of the Association. Copies of such Rules and Regulations and Amendments thereto shall be furnished to all Unit Owners. Any Amendments to the Rules and Regulations by the Board of Directors shall not be required to be filed as an Amendment to the Declaration of Condominium, nor recorded among the Public Records.

(H) MODEL UNITS. The Developer shall have and retains the right to use and show as Model Unit(s), any Unit in the Condominium Property owned by Developer, and to display signs in reasonably appropriate places on the Condominium Property, entrance, foyer of the appropriate building, and upon the door of such Unit as to advise the public of the availability of these Units for sale and/or rental and of other matters pertaining thereto. Developer, its agents, servants, employees and lawful invitees may come upon the Condominium Property in a lawful manner for the purpose of showing and viewing such Model Units and otherwise conducting Developer's business of selling or renting such Units, irrespective of whether said Units are with the Condominium Property.

ARTICLE XIII

CONVEYANCES, TRANSFERS AND ENCUMBRANCES OF UNITS:

(A) CONVEYANCES. In order to insure a community of congenial residents and thus protect the value of the Units, the sale or exchange of Units by any Owner other than the Developer shall be subject to the following provisions so long as the Condominium exists:

(1) Any Unit Owner who enters into an Agreement to sell his Unit, shall within ten (10) days after the execution of such agreement, furnish to the Association written notice of the name or names and residence addresses of the proposed purchaser or purchasers together with a copy of the said agreement. The Owner shall also furnish the Association with such other information as the Association may reasonably require. Notice shall not be deemed to be given if it is erroneous in any material aspect.

(2) Upon receipt of the Association of the notice required in subparagraph (1) of paragraph (A) of this ARTICLE XIII, the Association shall have ten (10) days from receipt to approve or disapprove the proposed purchaser. If the Association disapproves of the proposed purchaser, the Association shall, within thirty (30) days after such disapproval, but in no event later than forty (40) days after receipt of notice by the Seller, furnish the Seller with an approved purchaser who will accept the terms of sale as favorable to the Seller as those terms initially set forth in the notice to the Association by the Seller. In the event that the Association does not furnish to the Seller a substitute purchaser in the manner provided above, the Seller shall be free to sell his Unit to the purchaser initially proposed by him, and the Association shall provide said purchaser with an approval. Any approval by the Association shall be in recordable form and delivered by the Association to the purchaser, and no sale of any Unit shall be valid without such approval.

(3) No Unit Owner shall sell, transfer, convey or lease his Unit unless and until all past due assessments are paid, or their payment provided for to the satisfaction of the Association.

(4) If a Unit Owner shall lease his Unit, he shall remain liable for the performance of all the agreements and covenants in the Condominium Documents, and he shall be liable for the violations by the lessee of any and all provisions contained therein.

(5) Every purchaser or lessee, who acquires any interest in a Unit, shall acquire the same subject to the Condominium Act.

(6) The Board of Directors of the Association shall have the right and power to establish and assess a reasonable "transfer fee" as provided by Section 711.08(2), Florida Statutes, to be paid by the transferor (other than the Developer) of a Unit as a condition precedent to the validity of the transfer.

(B) DECEASED UNIT OWNERS.

(1) If the Owner of a Unit should die and the title to his Unit shall pass to his surviving spouse or to any immediate member of his family regularly in residence with him in the Unit prior to his death, such successor in title shall fully succeed to the ownership, rights, duties and obligations of the Unit Owner, the provisions of subparagraph (1) of Paragraph (A) of ARTICLE XIII of this Declaration notwithstanding.

(2) If title to the Unit of such deceased Owner shall pass to any person other than a person or persons designated in Paragraph (1) above, then within ninety (90) days of such person or persons taking title, occupancy or possession of the Unit of the deceased Owner, he shall give the Association the notice required in subparagraph (1) of Paragraph (A) of ARTICLE XIII of this Declaration, but shall not be subject to the provisions of subparagraph (2) of Paragraph (A) of ARTICLE XIII.

(3) Nothing in this Article shall be deemed to reduce, forgive or abate any amounts due the Association from the Unit Owner at the time of his death, nor the assessments attributable to the Unit becoming due after the Unit Owner's death.

(C) MORTGAGES. An Owner who mortgages his Unit must notify the Association of the name and address of his mortgagee, and the Association shall maintain such information in a register which shall, among other things, contain the names of all the Owners of Units and the names of mortgagees holding mortgages on Units. The failure to notify the Association of the existence of a mortgage shall in no way impair the validity of the mortgage. If an Owner mortgages his Unit, he shall not be permitted to modify, alter or change any physical aspect of the Unit without the written authorization of the mortgagee, which authorization shall be in the form commonly required for the recordation of instruments in Monroe County, Florida.

(D) LIENS.

(1) Protection of Property. All liens against a Unit other than for mortgages, taxes or special assessments, shall be satisfied or otherwise removed within thirty (30) days from the date the lien attaches. All taxes and special assessments upon a Unit shall be paid before they become delinquent.

(2) Notice of Lien. A Unit Owner shall give notice to the Association of every lien against his Unit other than mortgages, taxes, and special assessments within five (5) days after the lien has attached.

(3) Notice of Suit. Every Unit Owner shall give notice to the Association of every suit or other proceeding which may effect the title to his Unit, such notice to be given within five (5) days after the Unit Owner receives actual notice thereof.

(4) Failure to comply with this section concerning liens will not affect the validity of any judicial sale.

(E) RIGHTS OF MORTGAGEES. The provisions of this ARTICLE XIII shall in no way be construed as affecting the rights of an Institutional First Mortgagee owning a recorded Institutional First Mortgage on any Unit and the rights hereinabove set forth shall remain subordinate to any such Institutional First Mortgage. Further, the provisions of this Article shall not be applicable to purchasers at foreclosure or other judicial sales of Institutional First Mortgages, or to transfers to or by Institutional First Mortgagees, to the Developer or any corporate grantee of the Developer.

(F) UNAUTHORIZED TRANSACTION. Any sale which is not authorized pursuant to the terms of this Declaration shall be voidable by the Association unless subsequently approved by the Association, which approval shall be in the form specified in subparagraph (2) of paragraph (A) of this ARTICLE XIII.

(G) COMPLIANCE AND DEFAULT. Each Unit Owner shall be governed by and shall comply with the terms of the Condominium Documents. A default shall entitle the Association or other Unit Owners to the following relief:

(1) Legal Proceedings. In addition to the remedies for the foreclosure of a lien as provided for in ARTICLE VII hereof, the Association shall have each and all of the rights and remedies which may be provided for in the Condominium Documents or which may be available at law or in equity, and may prosecute any action or other proceedings against such defaulting Unit Owner and/or others for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or for damages or injunction or specific performance or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. All expenses of the Association in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses and all damages liquidated or otherwise, together with interest thereon at the maximum legal rate shall be charged to and assessed against such defaulting Unit Owner, and the Association shall have a lien for all of the same, as well as for non-payment of his respective share of the common expenses and upon his Unit and upon all of his additions and improvements

thereto and upon all of his personal property in his Unit or located elsewhere on the Condominium Property. In the event of any such default by any Unit Owner, the Association shall have the authority to correct such default, and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner.

(2) Negligence. Each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his neglect or carelessness or by that of any member of his family or his or their guests, employees, agents or lessees. Should the rates for the insurance required to be carried by the Association be increased due to the use, misuse, occupancy or abandonment of a Unit by the Unit Owner, said Owners alone shall be liable to the Association for the increase and such increase shall not be deemed to be a common expense of the Association.

(3) Costs and Attorneys' Fees. In any proceeding arising because of an alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceedings and reasonable attorneys' fees from the other party.

(4) Waiver of Rights. The failure of the Association or of any Unit Owner to enforce the covenants, restrictions or other provisions of the Condominium Documents shall not constitute a waiver of the right to do so thereafter.

ARTICLE XIV

BOAT SLIPS:

(A) OWNERSHIP RIGHTS. The Developer is submitting sixty-four (64) Boat Slips to Condominium ownership. The Developer intends to sell 46 of the said Boat Slips, with the remaining 18 Slips being conveyed as part of the purchase price to purchasers of the two (2), three bedroom Apartments in Building B, and to all purchasers of Apartments in Building C. There shall be attributed to each Boat Slip an undivided share of the Common Elements as set forth in EXHIBIT "2". The Owner of each Boat Slip shall be responsible for the payment of all of those Common Expenses attributable to such Boat Slip in the same manner as the owner of an Apartment Unit is responsible for the payment of those Common Expenses attributable to his Unit. Further, the Owner of each Boat Slip shall be subject to the same assessment, collection and lien procedures as are the Owners of Condominium Units. The ownership of a Boat Slip shall not entitle the owner thereof to vote in the affairs of the Condominium Association, nor shall such ownership increase the vote which a Unit Owner would otherwise have in affairs of the said Association.

(B) BOUNDARIES. Each Boat Slip shall include that area lying within and extending to the center line of each of the two wood mooring piles on either side thereof extending from and parallel to the wood, shoreline dock, together with the submerged land thereunder and together with an easement for the use of the air space occupied by the Boat Slip as it exists at any particular time, which easement shall be terminated automatically in any air space which is permanently vacated.

(C) INGRESS AND EGRESS. The ownership of each Boat Slip shall include and there shall pass with each Boat Slip as appurtenances thereto, easements through the Common Elements for ingress and egress, to and from the Marina area and the Boat Slips.

(D) TRANSFER AND CONVEYANCE OF BOAT SLIPS. The lease, conveyance and method of transfer of Boat Slips shall be accomplished in the same manner as provided in ARTICLE XIII of this Declaration for the transfer of Apartment Units except that the 18 Boat Slips which are conveyed, as part of the purchase price, to Purchasers of the two (2), three bedroom Apartments in Building B, and to all purchasers of Apartments in Building C, shall at no time, be conveyed separate and apart from said Unit and such Boat Slips shall, upon conveyance of the said Condominium Unit by the Unit Owner, likewise pass to the new Unit Owner; provided, however, that any of said 18 Boat Slips may be leased or rented by the Owners thereof in the same manner as provided in said ARTICLE XIII hereof. All other Boat Slips may be freely leased, transferred or conveyed in accordance with and subject to the provisions of this Declaration.

(E) MAINTENANCE. Each owner of a Boat Slip shall be responsible for maintaining in good condition and repair his Boat Slip and appurtenances thereto. All remaining portions of the Marina Area, not specifically identified and described as a Boat Slip, including without limitation, the wood or concrete dock parallel and adjacent to the shoreline and the wood dock extensions perpendicular thereto, and all electrical outlets servicing said area, if any, shall be maintained, repaired and replaced at the Association's expense. No Boat Slip Owner shall, without first obtaining the prior written approval of the Association, make any alteration or addition in or to any portion of his Boat Slip or of the Condominium Property, or remove any portion thereof, or make any addition thereto, or do any work which would jeopardize the safety and soundness of the Marina Area, any adjoining Boat Slip, the Condominium Property or impair any easement.

(F) RIGHTS OF DEVELOPER. Nothing contained herein shall prevent the Developer from leasing any Boat Slip which it has not sold; in all events, however, the Developer shall be responsible for the payment of the Common Expenses attributable to those Boat Slips owned by it in the same manner as is provided in ARTICLE V for Developer-owned Apartment Units.

ARTICLE XV

AMENDMENT:

(A) DECLARATION OF CONDOMINIUM. Except as herein otherwise provided, amendments to this Declaration shall be adopted as follows:

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

(2) Resolution. A resolution adopting and approving a proposed amendment shall be proposed, adopted and approved by the Board, it must be adopted and approved by the members. Directors and Unit Owners not present at the meeting considering the amendment may approve and adopt same in writing. Such proposals, adoptions and approvals must be by a vote of not less than fifty-one (51%) percent of the Unit Owners entitled to vote, except as to an amendment altering the percentages of ownership in the Common Elements or the voting rights of any of the Owners of the Condominium, any of which shall required the approval of one hundred percent (100%) of the Owners, except as provided for in ARTICLE V herein.

(3) Consent. No amendment shall be made which would affect or in any way alter the extent, nature and priority of the lien and rights of Institutional Mortgages without the consent of all such Institutional Mortgages.

(4) Approval. ARTICLE V of this Declaration of Condominium may not be amended without the written approval and joinder of the Developer.

(5) Recording. A copy of each amendment shall be certified by the officers of the Association as having been duly adopted and shall be duly recorded in compliance with Section 10 of the Condominium Act. The amendment shall become effective when recorded among the Public Records of Monroe County, Florida.

(B) ARTICLES OF INCORPORATION AND BY-LAWS. The Articles of Incorporation and the By-Laws of the Association shall be amended only in the manner provided therein.

(C) PROVISIO. Except as provided in ARTICLE V herein, no amendment shall change any Condominium Unit nor the share of the Common Elements, Common Expenses or Common Surplus attributable to any Unit, nor the voting rights appurtenant to any Unit, unless the record Owner or Owners thereof and all record owners of liens upon such Unit or Units shall join in the execution of such amendments. No amendment or change to this Declaration or to the Articles of Incorporation

or the By-Laws of the Association shall be effective to affect or impair the validity or priority of any mortgage encumbering a Unit without the written consent thereto by all of the mortgagees owning and holding the mortgage or mortgages encumbering the said Unit or Units, which consent shall not be unreasonably withheld and shall be executed with the formalities required for deeds and filed with the aforesaid amendment. The Developer reserves the right, at any time prior to the closing of the sale of the first Condominium Unit under this Declaration of Condominium, to make amendments to the Condominium Documents so long as said amendments do not affect the percentage of ownership in the Common Elements, assessments, voting rights, location or size of any Unit.

ARTICLE XVI

TERMINATION:

The Condominium may be terminated in one of the following manners:

(A) AGREEMENT. The termination of the Condominium may be effected by the unanimous agreement of the Unit Owners and all Institutional Mortgagees, which agreement shall be evidenced by an instrument executed in the same manner as required for the conveyance of the land. The termination shall become effective when such agreement has been recorded in the Public Records of Monroe County, Florida.

(B) DESTRUCTION. In the event it is determined as is elsewhere provided that the Condominium shall not be rebuilt after destruction, the condominium form of ownership shall at such time be terminated.

(C) RIGHTS OF MORTGAGEES. Termination of the Condominium shall in no way impair the rights of Institutional Mortgagees or lienors of the Condominium Units with respect to said Units.

(D) RIGHTS OF DEVELOPER. The Developer shall have the right to terminate this Condominium prior to the conveyance of title to the first Unit, which said termination shall be by the filing of a sworn affidavit pursuant to Florida Statutes.

ARTICLE XVII

SEVERABILITY:

The invalidity of any covenant, restriction or other provisions of any Condominium Documents shall not affect the validity of the remaining portions.

ARTICLE XVIII

TITLES AND SUBTITLES:

All titles, subtitles and other designations contained herein are solely for the purpose of convenience and shall in no event be deemed to affect in any way the contents or the substance contained in this Declaration of Condominium and/or any or all of the Exhibits hereto.

IN WITNESS WHEREOF, the undersigned has hereunto executed this instrument and affixed its corporate seal at Key Largo, Florida, this 24th day of June, 1976.

MOON BAY INC., a Florida corporation

BY: Amos P. Quirk

PRESIDENT

ATTEST: William J. ...

SECRETARY

STATE OF FLORIDA
COUNTY OF MONROE

Before me the undersigned authority, duly authorized to administer oaths and take acknowledgments, personally appeared Amos P. Quirk and William J. ... respectively President and Secretary of MOON BAY INC., a Florida corporation, and severally acknowledged to and before me to be the individuals described in and who executed the foregoing instrument as such Officers of said Corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said Corporation and that it was affixed to said instrument by due and regular corporate authority, and that said instrument is the free act and deed of said Corporation.

Witness my hand and official seal, this 24th day of June, 1976.

William J. ...
NOTARY PUBLIC, STATE OF FLORIDA

MY COMMISSION EXPIRES:

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES FEB. 9, 1977
REMOVED THRU GENERAL REG. UNDERSTANDING

OFF REC 678 PAGE 427

LEGAL DESCRIPTION
OF
MOON BAY, A CONDOMINIUM

EXHIBIT "1"

LEGAL DESCRIPTION
OF
MOON BAY, A CONDOMINIUM

A portion of Tract 1 and the adjoining 20.00 feet right-of-way of West Dixie Highway, as shown on the Plat of "Baywood Subdivision" according to the Plat thereof as recorded in Plat Book 1, Page 102, of the Public Records of Monroe County, Florida, being more particularly described as follows:

Commence at the intersection of the extended North line of Tract 1 of said Baywood Subdivision said line also being the South line of Tract 4 of "Highland Shores" according to the Plat thereof as recorded in Plat Book 3, Page 39, of the Public Records of Monroe County, Florida, with the Northwesternly right-of-way line of State Road No. 5 (U.S. 1) said Point being the Point of Beginning of the herein described parcel; thence run South 37° 30' 00" West along said Northwesternly right-of-way for 210.00'; thence run North 52° 30' 00" West for 269.51' more or less to an intersection with the North line of Tract 1 of said "Baywood Subdivision"; thence run North 89° 34' 30" East along said Northline for 341.67 feet to the Point of Beginning.

Tract 4 of "Highland Shores" according to the Plat thereof, as recorded in Plat Book 3, Page 39, of the Public Records of Monroe County, Florida.

A parcel of submerged land in Blackwater Sound, in Section 11, Township 61 South, Range 39 East, Key Largo, Monroe County, Florida, being more particularly described as follows:

Commence at the intersection of the dividing line between Tracts 3 and 4 of "Highland Shores" according to the Plat thereof as recorded in Plat Book 3, Page 39, of the Public Records of Monroe County, Florida, and the Northwesternly right-of-way of State Road No. 5 (Overseas Highway or (U.S.1) as shown on said Plat of "Highland Shores", thence run South 89° 29' 52" West along the dividing line between Tracts 3 and 4 of said Plat of "Highland Shores" for 573.8 feet to the mean high tide line on the Northeasterly shore of said Blackwater Sound, said Point being the Point of Beginning of the herein described parcel; thence run North 64° 50' 20" West for 227.86' feet; thence run South 26° 04' 10" West for 262.05 feet; thence run South 62° 02' 50" East for 238.34 feet to said mean high tide line; thence run Northeasterly, meandering said mean high tide line for 273.4 feet to the Point of Beginning.

EXHIBIT "1"

SCHEDULE OF PERCENTAGE OF OWNERSHIP
IN COMMON ELEMENTS, COMMON EXPENSE
AND COMMON SURPLUS OF MOON BAY, A
CONDOMINIUM

SCHEDULE OF PERCENTAGE OF INTEREST
IN COMMON ELEMENTS, COMMON EXPENSE
AND COMMON SURPLUS OF MOON BAY, A
CONDOMINIUM

<u>Building "A"</u>	<u>Building "B"</u>	<u>Building "C"</u>
A 201 = .9013015	B 101 = .8987970	C 1 = 1.0396993
A 202 = .9013015	B 102 = .8987970	C 2 = 1.0396993
A 203 = .9013015	B 103 = .8987970	C 3 = 1.0396993
A 204 = .9013015	B 105 = 1.1766400	C 4 = 1.0396993
A 205 = .9013015	B 106 = 1.1766400	C 5 = 1.0396993
A 206 = .9013015	B 107 = 1.1766400	C 6 = 1.0396993
A 207 = .9013015	B 201 = .8987970	C 7 = 1.0396993
A 208 = .9013015	B 202 = .8987970	C 8 = 1.0396993
A 209 = .9013015	B 203 = .8987970	C 9 = 1.0396993
A 210 = .9013015	B 204 = .8987970	C 10 = 1.0396993
A 301 = .9013015	B 205 = .8987970	C 11 = 1.0396993
A 302 = .9013015	B 206 = .8987970	C 12 = 1.0396993
A 303 = .9013015	B 207 = .8987970	C 13 = 1.0396993
A 304 = .9013015	B 301 = .8987970	C 14 = 1.0396993
A 305 = .9013015	B 302 = .8987970	C 15 = 1.0396993
A 306 = .9013015	B 303 = .8987970	C 15 = 1.0396993
A 307 = .9013015	B 304 = .8987970	
A 308 = .9013015	B 305 = .8987970	
A 309 = .9013015	B 306 = .8987970	
A 310 = .9013015	B 307 = .8987970	
A 401 = .9013015	B 401 = .8987970	
A 402 = .9013015	B 402 = .8987970	
A 403 = .9013015	B 403 = .8987970	
A 404 = .9013015	B 404 = .8987970	
A 405 = .9013015	B 405 = .8987970	
A 406 = .9013015	B 406 = .8987970	
A 407 = .9013015	B 407 = .8987970	
A 408 = .9013015	B 503 = 1.3019924	
A 409 = .9013015	Penthouse	
A 410 = .9013015	B 505 = 1.3019924	
A 501 = .9013015	Penthouse	
A 502 = .9013015		
A 503 = .9013015		
A 504 = .9013015		
A 505 = .9013015		
A 506 = .9013015		
A 507 = .9013015		
A 508 = .9013015		
A 509 = .9013015		
A 510 = .9013015		

Boat Slips

1 = .3063706	17 = .3063706	33 = .3063706	49 = .3063706
2 = .3063706	18 = .3063706	34 = .3063706	50 = .3063706
3 = .3063706	19 = .3063706	35 = .3063706	51 = .3063706
4 = .3063706	20 = .3063706	36 = .3063706	52 = .3063706
5 = .3063706	21 = .3063706	37 = .3063706	53 = .3063706
6 = .3063706	22 = .3063706	38 = .3063706	54 = .3063706
7 = .3063706	23 = .3063706	39 = .3063706	55 = .3063706
8 = .3063706	24 = .3063706	40 = .3063706	56 = .3063706
9 = .3063706	25 = .3063706	41 = .3063706	57 = .3063706
10 = .3063706	26 = .3063706	42 = .3063706	58 = .3063706
11 = .3063706	27 = .3063706	43 = .3063706	59 = .3063706
12 = .3063706	28 = .3063706	44 = .3063706	60 = .3063706
13 = .3063706	29 = .3063706	45 = .3063706	61 = .3063706
14 = .3063706	30 = .3063706	46 = .3063706	62 = .3063706
15 = .3063706	31 = .3063706	47 = .3063706	63 = .3063706
16 = .3063706	32 = .3063706	48 = .3063706	64 = .3063706
TOTAL 100.00			

EXHIBIT "2"

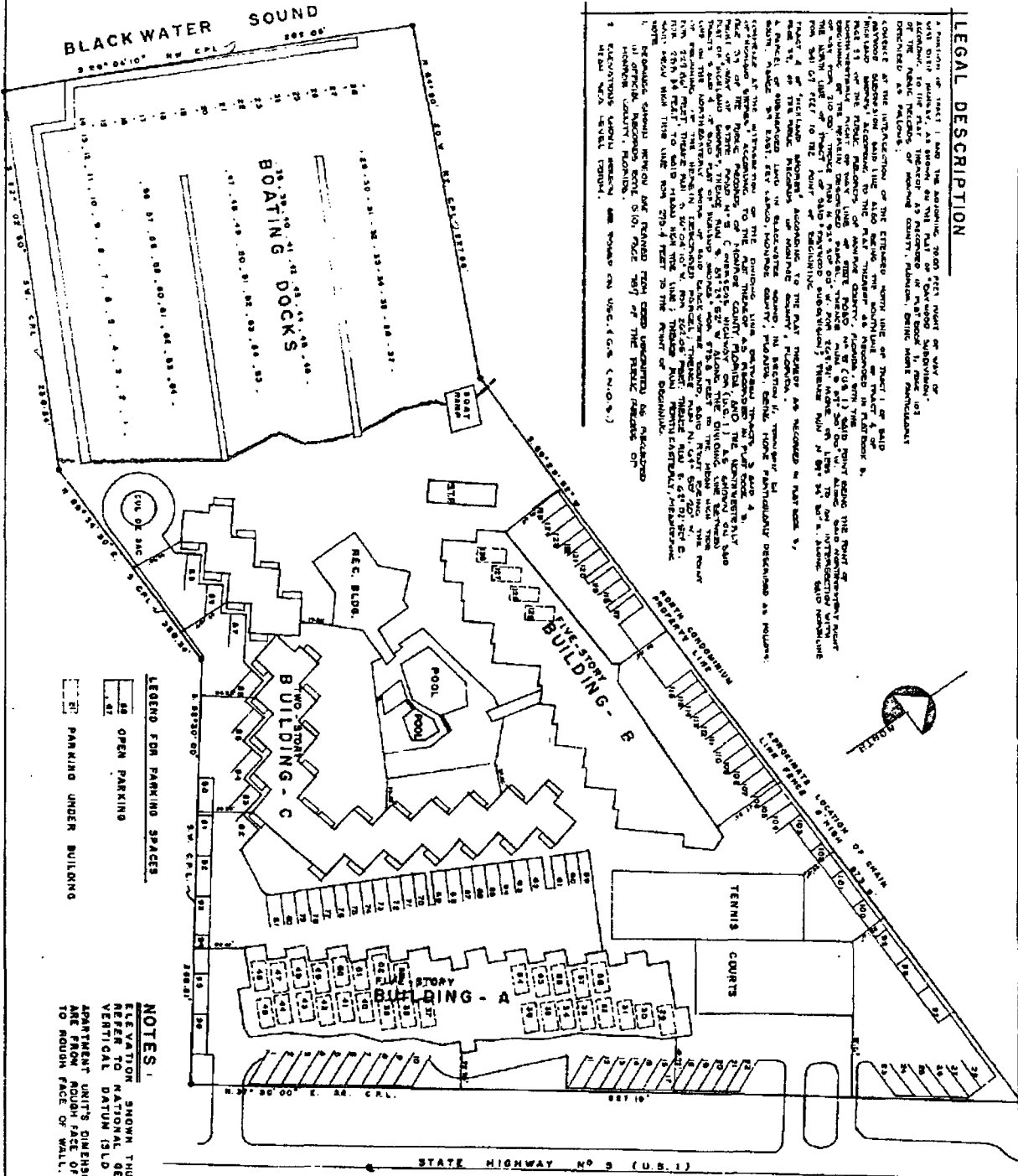
EXHIBIT "3"

OF MOON BAY, A CONDOMINIUM

GRAPHIC DESCRIPTION
PLOT PLAN, SURVEY AND

REC'D 678 PAGE 431

LEGAL DESCRIPTION

[illegible][illegible][illegible]

PLOT PLAN, SURVEY, AND
 GRAPHIC DESCRIPTION OF
 MOON BAY, A CONDOMINIUM

**DESCRIPTION OF CONDOMINIUM APARTMENTS
AND CONDOMINIUM UNITS**

[illegible]

DESCRIPTION OF COMMON ELEMENTS	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	

DESCRIPTION OF COMMON ELEMENTS

COMMON ELEMENTS MEANS THE PORTION OF THE COMMONHALL PROPERTY NOT INCURBED IN THE JUDICIAL DECISION, BUT NOT LIMITED TO RESEMBLING THOUGH NOT NECESSARILY, MTS. CREEKS, PLUMMER, VIRGIN, AND OTHER PROPERTIES, FOR THE MAINTENANCE & REPAIR BELONGING TO THE COMMONS. ELEMENTS ARE ESTABLISHED BY AGREEMENT IN WRITING, EITHER BEFORE OR AFTER THE DECISION, TO THE EFFECT OF THE JUDICIAL DECISION.

DESCRIPTION OF LIMITED COMMON ELEMENTS	PERCENTAGE OF UNIT'S SHARE OF COMMON ELEMENTS
1. Common areas, including but not limited to, the lobby, hallways, stairways, and other areas common to the building.	100%
2. The roof and exterior walls of the building.	100%
3. The foundation and structural elements of the building.	100%
4. The plumbing, heating, and air conditioning systems.	100%
5. The electrical and communication systems.	100%
6. The landscaping and grounds maintenance.	100%
7. The parking areas and other facilities.	100%
8. The fire alarm and fire extinguishing systems.	100%
9. The security and access control systems.	100%
10. The waste management and recycling systems.	100%
11. The pest control and maintenance services.	100%
12. The insurance and liability coverage.	100%
13. The legal and accounting fees.	100%
14. The other expenses and costs of the association.	100%

DESCRIPTION OF UNITED COMMON ELEMENTS

UNITED COMMON ELEMENTS MEANS AND INCLUDES THOSE COMMON ELEMENTS WHICH ARE RESERVED FOR THE USE OF THE SEVERAL CO-OWNERS OF ELEMENTS WITHIN THE BUILDING. THE UNITED COMMON ELEMENTS INCLUDES BUT ARE NOT LIMITED TO ALL OF THE OPEN UNDEVELOPED PORTIONS, STAIRS, ETC. (SEE ABOVE PARAGRAPHS).

SECTION 10 OF BOAT BILL

<u>DESCRIPTION OF BOAT SLIP</u>	<u>DATE WHEN BOAT SLIP ACQUIRED</u>	<u>BOAT SLIP NUMBER AND AREA</u>

DESCRIPTION OF BOAT SLIP
BOAT SLIP INCLUDED THE AREA LYING WITHIN AN APPROXIMATELY
THE CENTER LINE OF EACH OF THE TWO WOOD MOUNTAINS, PLUS
ON EITHER SIDE THEREOF THEREIN OF THE APPROXIMATELY
THEREIN.

CERTIFICATION

[illegible]

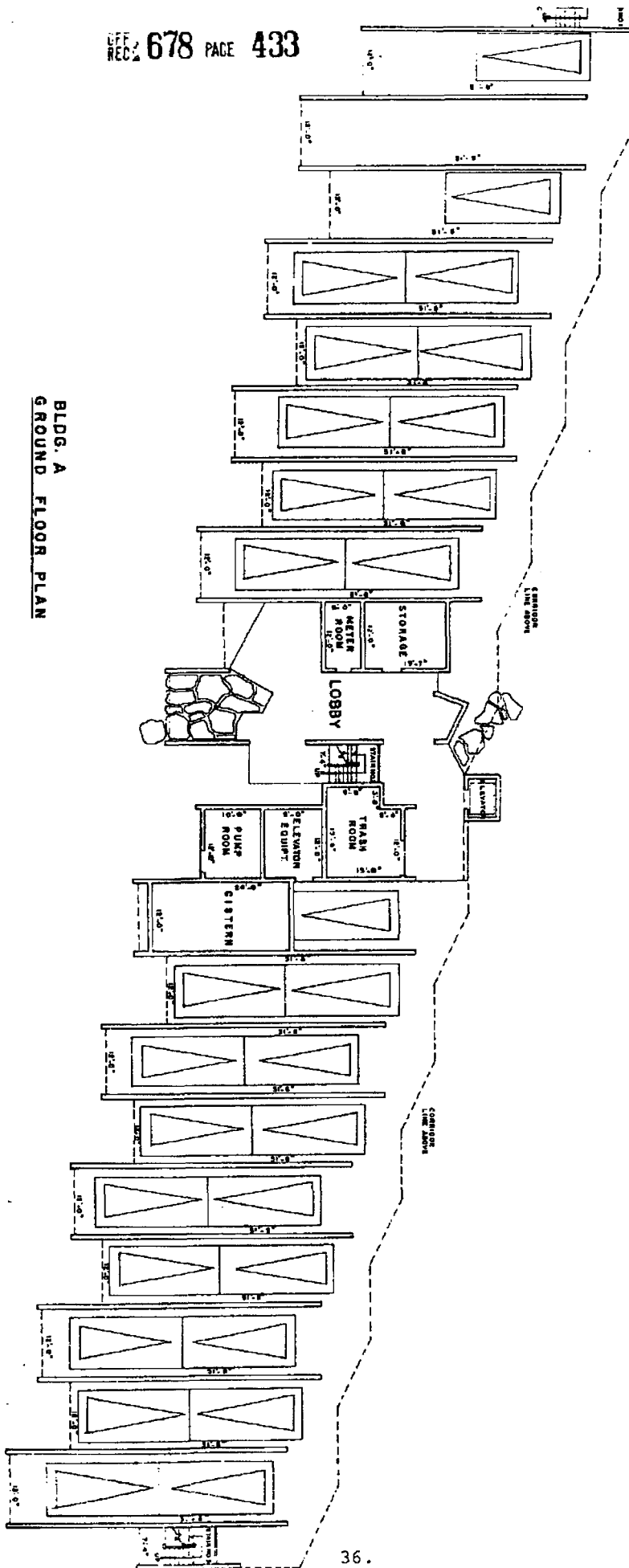
NOTES -

NOTES:
ELEVATION SHOWN THUS (14.30)
REFER TO NATIONAL GEODETIC
VERTICAL DATUM (SLD 1929).
APARTMENT UNIT'S DIMENSIONS
ARE FROM ROUGH FACE OF WALL
TO ROUGH FACE OF WALL.

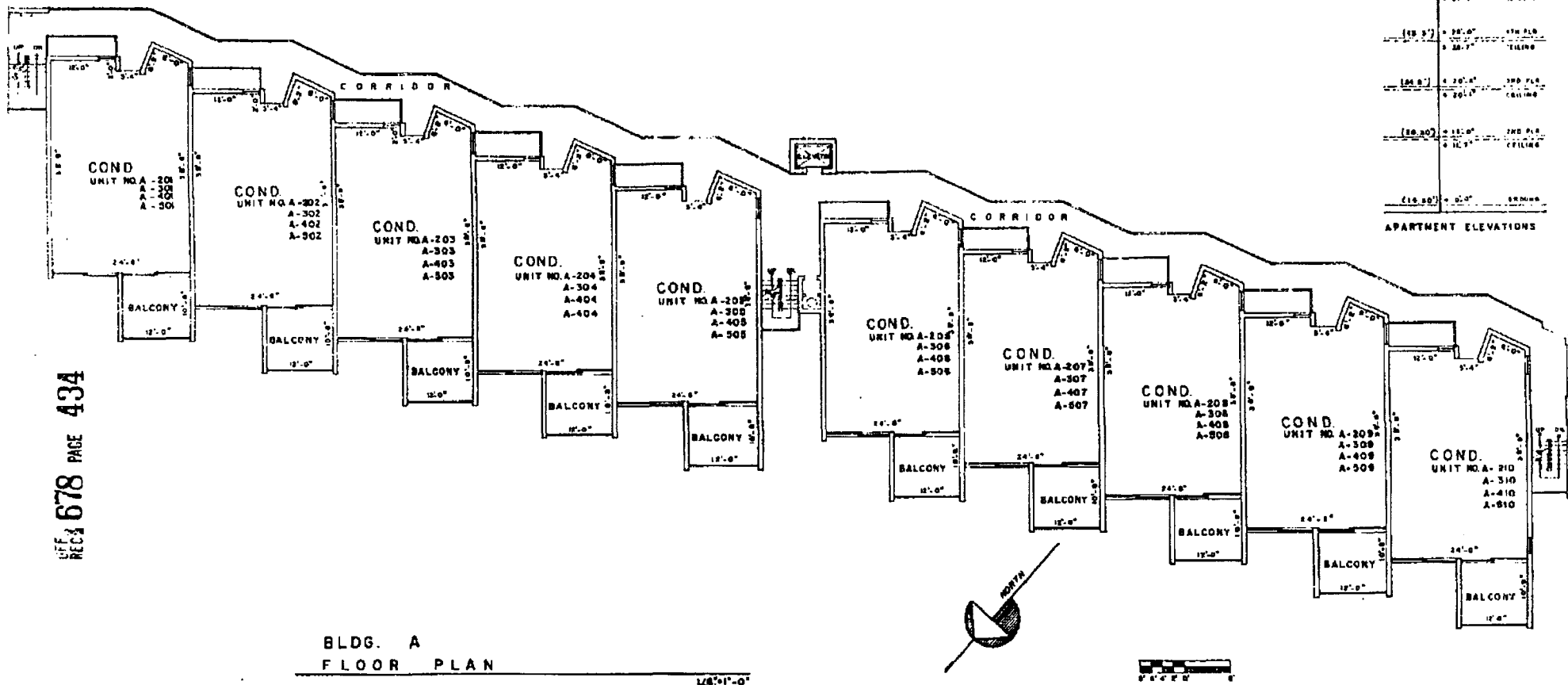
EXHIBIT "3"

Lancefield
ROMAN & LANNES
PIT LAND SURVEYOR
P.O. LICENSE #2295

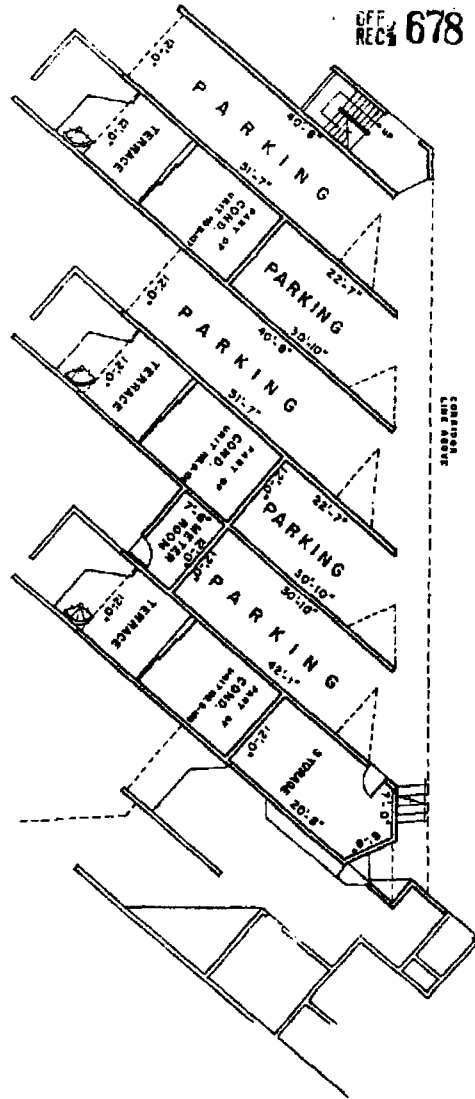
BLDG. A
GROUND FLOOR PLAN



2 of 9



John H. Wilson



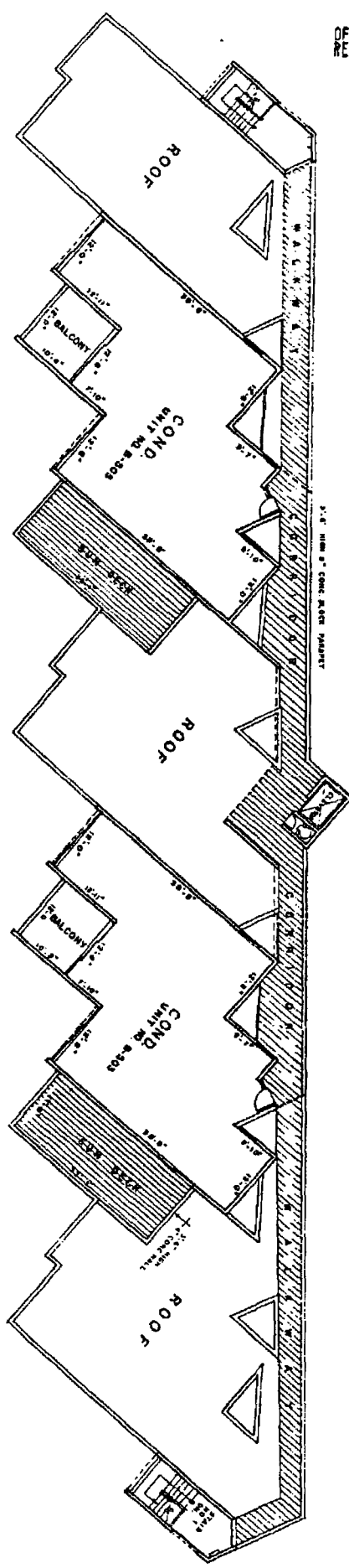
BUILDING 8 PARKING LEVEL PLAN

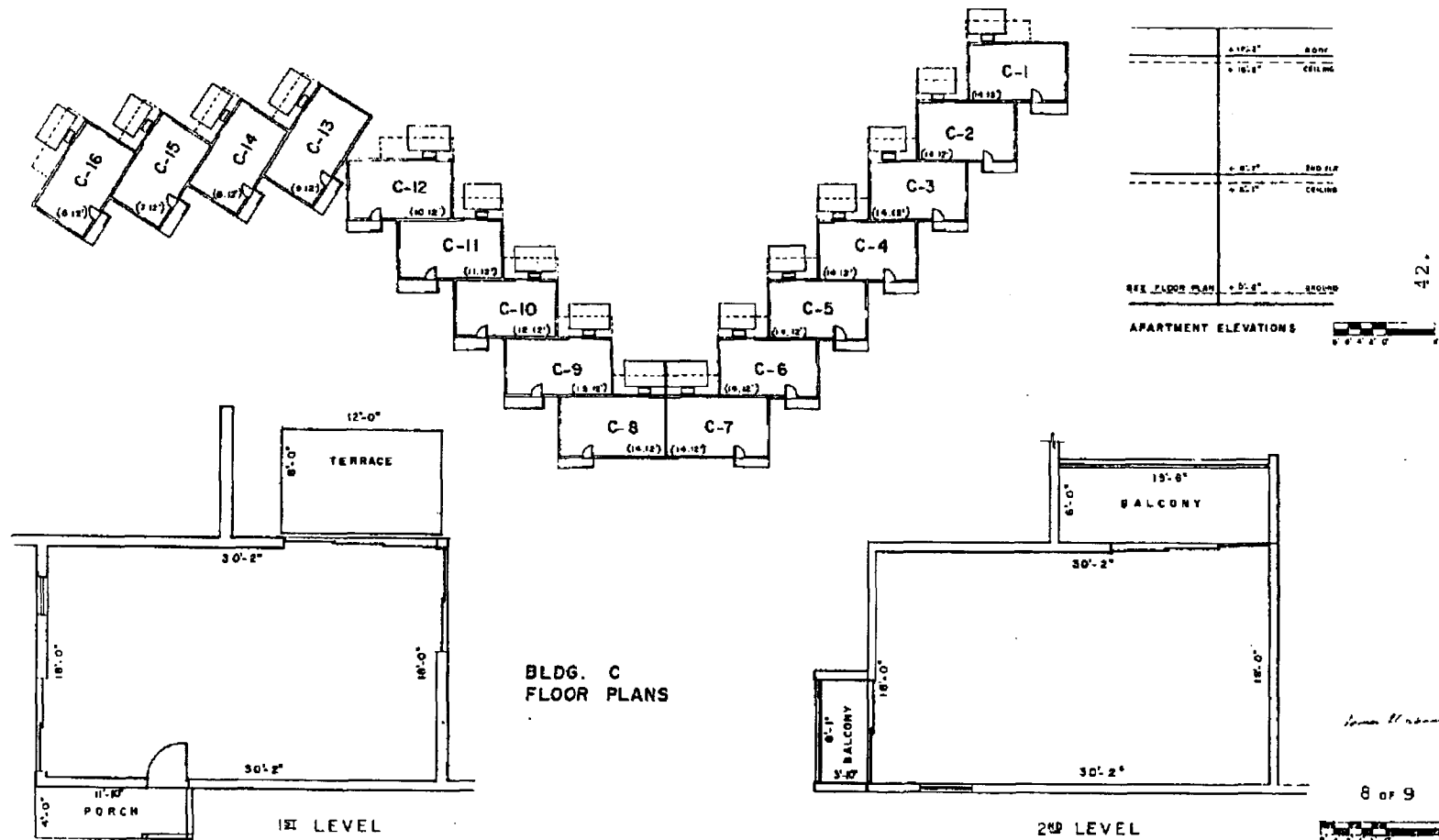
1/8" = 1'-0"



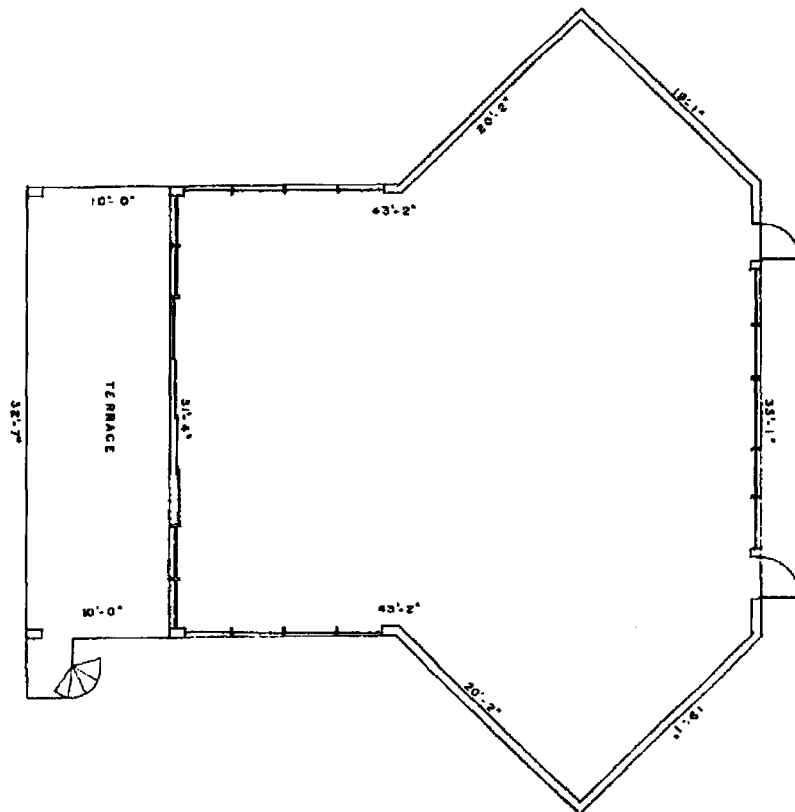
BLDG. B
PENTHOUSE & ROOF PLAN

1/8" = 1'-0"





RECREATION BUILDING
FLOOR PLAN 1/4" = 1'-0"



OFF REC 678 PAGE 441

ARTICLES OF INCORPORATION OF

SEA BAY, A CONDOMINIUM

EXHIBIT "4"

ARTICLES OF INCORPORATION

OF

MOON BAY CONDOMINIUM ASSOCIATION, INC.

a Florida corporation not for profit

ARTICLE I

The name of the Corporation is MOON BAY CONDOMINIUM, INC.

ARTICLE II

This Corporation is incorporated as a corporation not for profit under the provisions of Chapter 607 and 617, Florida Statutes, as amended.

ARTICLE III

The principal office and post office address of the Corporation shall be Rte. 3, Box 279, Key Largo, Florida 33037.

ARTICLE IV

The street address of the registered office of this Corporation is 900 Dade Federal Building, 101 East Flagler Street, Miami, Florida 33131 and the name of the registered agent of this Corporation at that address is BISCAYNE CREDIT, INC., a Florida corporation.

ARTICLE V

The purpose for which this Corporation is organized is to act on behalf of its members collectively as their governing body with respect to the administration, maintenance, repair and replacement of certain property, hereafter called "The Property" and legally described as:

Please see EXHIBIT "A" attached hereto and made a part hereof.

which has been or will be submitted to the provisions of the Condominium Act of the State of Florida to be known as MOON BAY, A CONDOMINIUM, and as such to own and acquire any real estate or interest or rights therein appurtenant thereto and any and all personal property in connection therewith as may be incidental or necessary to such purpose, all on a not for profit basis.

ARTICLE VI

The term for which this Corporation is to exist is perpetual unless the Condominium is terminated pursuant to the provisions of the Declaration of Condominium of MOON BAY, A CONDOMINIUM, or pursuant to the relevant provisions of the Florida Statutes. Any such dissolution will be pursuant to the terms of the Declaration of Condominium.

ARTICLE VII

The members of this Corporation shall consist of all of the record owners of the Condominium Units in the Condominium. Until the recording of the Declaration of Condominium submitting the property to condominium ownership, the members shall consist of the incorporators. The Owner of a Condominium Unit in the Condominium shall automatically be and become a member of this Corporation. The share of a Member in the funds and assets of this Corporation cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Condominium Unit. Membership shall likewise automatically terminate upon sale or transfer of the Unit, whether voluntarily or involuntarily. There shall be one person with respect to each Unit Ownership who shall be entitled to vote at any meeting of the Association. Such person shall be known (and is hereinafter referred to) as a "Voting Member". If a Unit is owned by more than one person, the Owners of said Unit shall designate one of them as the Voting Member, or in the case of a Corporate Unit Owner, an officer or employee thereof shall be the Voting Member. The designation of the Voting Member shall be made as provided by and subject to the provisions and restrictions set forth in the Declaration of Condominium of the Association. A vote of a Condominium Unit is not divisible. An Owner of a Boat Slip who is not the Owner of an Apartment Unit shall not be entitled to vote in the affairs of the Condominium Association, nor shall ownership of a Boat Slip increase the vote which a Unit Owner would otherwise have in such affairs of said Association.

ARTICLE VIII

The affairs of the Corporation shall be governed by a Board of Directors which Board will consist of not less than three (3) nor more than fifteen (15) persons. With the exception of the initial Board, Directors shall be elected from among the Unit Owners; or if a Unit Owner shall be a corporation, partnership or trust, then an officer, partner or beneficiary of such Unit Owner shall be qualified to be a Director. The Board of Directors shall have all the powers and duties necessary for the administration of the affairs of the Corporation and shall have all the powers and duties referred to in the Declaration and in the Statutes of the State of Florida respecting corporations not for profit, and all of the powers defined and set forth in the Condominium Act of the State of Florida which the Unit Owners collectively may do or may have done. The powers of the Board of Directors shall include, but shall not be limited to the following:

- (A) To elect the officers of the Corporation;
- (B) To administer the affairs of the Corporation and the Property;
- (C) To engage the services of a manager or managing agent for the Property and to fix the terms of such engagement and the compensation and authority of the manager or managing agent;
- (D) To promulgate such rules and regulations concerning the operation and use of the Property or the Common Elements as may be consistent with the Declaration and these Articles of Incorporation and to amend the same from time to time;

(E) To provide for the maintenance, repair and replacement of the Common Elements and authorize leases with respect thereto; and

(F) To estimate and adopt an annual operating budget and to provide for the assessment and collection from the Unit Owners of their respective shares of the estimated expenses as hereinafter provided.

No power may be exercised by the Board of Directors to the extent it is inconsistent with the Declaration of Condominium, By-Laws of the Corporation, other Condominium documents and the Laws of the State of Florida.

ARTICLE IX

The initial Board of Directors of the Corporation shall consist of the following persons, each of whom shall serve until December 31, 1979:

RALPH M. CARESTIO, JR.
LESLIE J. TRZUSKOSKI
DUDLEY N. HARTT, JR.
JOHN S. SWART

Notwithstanding anything to the contrary herein contained in this Article IX, it is understood that the corporation developing the property known as MOON BAY CONDOMINIUM, said Corporation being MOON BAY INC., and its principals, are limited by Statute and will be limited hereunder as to their rights of election as Developer, of the members of the Board of Directors of this Corporation. Said Developer is hereby given the right to elect a majority of the members of the Board of Directors of MOON BAY CONDOMINIUM ASSOCIATION, INC., until such time as three (3) years after sales by the Developer have been closed on fifty (50%) per cent of the Units that will be operated ultimately by the Association; or three (3) months after sales have been closed by the Developer on ninety (90%) percent of the Units that will be operated ultimately by the Association; or when all of the Units that will be operated ultimately by the Association have been completed and some have been sold and none of the others are being offered for sale by the Developer in the ordinary course of business, whichever shall occur first. The Developer shall be entitled to elect not less than one (1) member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business any Units in the Condominium provided that such right may be waived by the Developer at its sole option. For purposes of this Paragraph, Developer shall mean, Developer, its successors and/or assigns.

At the expiration of the initial term of the office of each of the said respective directors, his successor shall be elected to serve until the next annual meeting of members and the election and qualification of their successors. Directors shall hold office until their successors have been elected and qualified. Vacancies in the Board of Directors may be filled by the remaining Directors and the Director so elected by the remaining Directors shall serve until the next annual meeting or special meeting of the members of the Corporation.

Annual meetings of the Board of Directors shall be held immediately following and at the same place as the annual meeting of the members of the Corporation. Special meetings of the Board of Directors may be called by the President or by a majority of the Board of Directors on the giving of not less than ten (10) days notice to each Director by mail or telegraph. Directors may, by a written waiver, waive notice of a meeting or consent to or take any

action without a formal meeting. At any meeting of the Board of Directors, a majority of the Board of Directors shall constitute a quorum for the transaction of business and any action may be taken by a majority of those present.

Directors may be removed from office by a vote of a majority of the voting interests of the Corporation, except that the members of the initial Board of Directors may not be so removed.

Directors shall receive no compensation for their services except as expressly provided by resolution duly adopted by the Members.

The Board shall have no authority to approve or authorize any capital expenditure in excess of Two Thousand Five Hundred Dollars (\$2,500.00) nor to authorize the Corporation to enter into any contract for a term of more than one (1) year (except with the approval of a majority of the voting interests of the Corporation, nor to levy any special assessment in excess of Two Hundred Fifty Dollars (\$250.00) per Unit per year without the approval of Seventy-five (75%) per cent of the Unit Owners.

ARTICLE X

The officers of the Corporation shall be a President, one or more Vice Presidents, a Secretary, a Treasurer, and such assistants to such officers as the Board may deem appropriate, which officers shall be elected at the first meeting of the initial Board of Directors, and at each annual meeting of the Board of Directors and shall hold office until their successors are elected or until they are otherwise removed.

Any officer may be removed at any meeting by the affirmative vote of a majority of the Members of the Board of Directors, either with or without cause, and any vacancy in any office may be filled by the Board at any meeting thereof.

Each respective officer of the Corporation shall have such powers and duties as are usually vested in such officer of a corporation not for profit, including but not limited to the following:

(A) The President shall be a Director and shall be the Chief Executive Officer of the Corporation and shall preside at all meetings of the Members and of the Board of Directors.

(B) The Vice President shall, in the absence or disability of the President, perform the duties and exercise the powers of such office.

(C) The Secretary shall keep Minutes of all meetings of the Members and of the Board of Directors and shall have custody of the Corporation seal and have charge of the membership transfer books and such other books, papers and documents as the Board of Directors may prescribe.

(D) The Treasurer shall be responsible for Corporation funds and securities and for keeping full and accurate accounts of all receipts and disbursements in Corporation books of account for such purpose.

The officers shall receive no compensation for their services except as expressly provided by a resolution duly adopted by the Members.

The initial officers of the Corporation shall be the following:

RALPH M. CARESTIO, JR.	President
LESLIE J. TRZUSKOSKI	Vice President
DUDLEY N. HARTT, JR.	Secretary
JOHN S. SWART	Treasurer

ARTICLE XI

The initial By-Laws of this Corporation are those annexed to the Declaration of Condominium to be made by MOON BAY, INC., a corporation authorized to transact business in the State of Florida, the Developer of the Condominium, and to be recorded among the Public Records of Monroe County, Florida, which said Declaration will cover the real property described in EXHIBIT "A" attached hereto and made a part hereof. Such By-Laws, subject to the provisions herein and therein contained, may be altered, amended, or added to in the manner provided for in said initial By-Laws or any subsequent By-Laws.

ARTICLE XII

These Articles of Incorporation may be altered, amended, changed, added to or repealed, in the manner now or hereafter prescribed by statute, or herein or by the By-Laws of this Corporation as they exist from time to time or the said Declaration of Condominium, at any duly called meeting of the Members of this Corporation provided that notice of the meeting is given in the manner provided for in the Articles of Incorporation and By-Laws of this Corporation, and that the notice contain a full statement of the proposed alteration, amendment, change, addition or repeal of any provision of these Articles, and that at such meeting there is an affirmative vote of two-thirds (2/3) of the voting interests present in person or by proxy in favor of said alteration, amendment, change, addition or repeal, but in no event shall these Articles of Incorporation be altered, amended, changed, added to or repealed to impair, amend, rescind, cancel or conflict with any contract or document entered into by the Corporation and which document or instrument is made a part of or referred to in these Articles of Incorporation except with the consent in writing of the contracting party.

ARTICLE XIII

The Corporation shall not have or issue shares of stock. No dividend shall be paid, and no part of the income of the Corporation shall be distributed to its Members, Directors or Officers. The Corporation may pay compensation in a reasonable amount to its Members, Directors and Officers for services rendered, may confer benefits upon its Members in conformity with its purposes, and upon dissolution or final liquidation may make distributions to its Members, and no such payment, benefit or distribution shall be deemed to be a dividend or a distribution of income.

ARTICLE XIV

In the event of the termination of said Condominium under the provisions of Chapter 711, Florida Statutes, as amended from time to time, or pursuant to the aforesaid Declaration of Condominium, the distributive share to each Unit Owner shall be determined in accordance with the provisions of said Declaration of Condominium.

ARTICLE XV

The Corporation shall maintain accounting records according to good accounting practices which shall be open to inspection by unit owners at reasonable times, and written summaries of which shall be supplied at least annually to unit owners. Such records shall include:

- (A) A record of all receipts and expenditures.
- (B) An account for each unit which shall designate the name and address of the unit owner, the amount of each assessment, the dates and amounts in which the assessments come due, the amounts paid upon the account and the balance due.

ARTICLE XV

The Corporation shall have all the powers listed below together with those powers conferred by the aforesaid Declaration of Condominium, the Articles of Incorporation, and any and all lawful By-Laws of the Corporation.

- (A) Have succession by its corporate name for the period set forth in its Articles of Incorporation.
- (B) Sue and be sued and appear and defend in all actions and proceedings in its corporate name to the same extent as a natural person.
- (C) Adopt and use a common corporate seal and alter the same; provided, however, that such seal shall always contain the words "corporation not for profit."
- (D) Elect or appoint such officers and agents as its affairs shall require and allow them reasonable compensation.
- (E) Adopt, change, amend and repeal By-Laws, not inconsistent with law or its Articles of Incorporation, for the administration of the affairs of the corporation and the exercise of its corporate powers.
- (F) Increase, by a vote of its members cast as the By-Laws may direct, the number of its directors, managers or trustees so that the number shall not be less than three (3) but not more than fifteen (15).
- (G) Make contracts and incur liabilities, borrow money at such rates of interest as the Corporation may determine, issue its notes, bonds and other obligations, and secure any of its obligations by mortgage and pledge of all or any of its property, franchises or income.
- (H) Conduct its affairs, carry on its operations, and have offices and exercise the powers granted by part I of this chapter in any state, territory, district, or possession of the United States or any foreign country.
- (I) Purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use or otherwise deal in and with real or personal property, or any interest therein, wherever situated.

(J) Acquire, enjoy, utilize and dispose of patents, copyrights and trademarks and any licenses and other rights or interests thereunder or therein.

(K) Sell, convey, mortgage, pledge, lease, exchange, transfer or otherwise dispose of all or any part of its property and assets.

(L) Purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge or otherwise dispose of and otherwise use and deal in and with, shares and other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district, municipality, or of any instrumentality thereof.

(M) Lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(N) Make donations for the public welfare or for religious, charitable, scientific, educational or other similar purposes.

(O) Have and exercise all powers necessary or convenient to effect any or all of the purposes for which the Corporation is organized.

The aforesaid powers are those powers which a Corporation not for profit may have under Chapter 607 and 617, Florida Statutes, as amended. Any amendment or amendments to the aforesaid statute are hereby incorporated by reference into these Articles of Incorporation as of the effective date or dates of such amendment or amendments. In addition, this Corporation shall have the right and the power to enter into agreements whereby it contracts with third parties for management of the Condominium Property, and to delegate to such third party as a manager of all powers and duties of the Corporation which according to the laws of the State of Florida may be so delegated.

Neither the Condominium Association nor any member thereof shall have the right to exercise any power which is in conflict with the Declaration of Condominium or those laws of the State of Florida which are applicable to condominiums and corporations not for profit.

ARTICLE XVII

Each Director and officer of this Corporation shall be indemnified by the Corporation against all costs and expenses reasonably incurred or imposed upon him in connection with or arising out of any action, suit or proceedings in which he may be involved or to which he may be made a party by reason of his having been a Director or officer of this Corporation, such expense to include the cost of reasonable settlements (other than amounts paid to the Corporation itself) made with a view of curtailment of costs and litigation. The Corporation shall not, however, indemnify such Director or officer with respect to matters as to which he shall be finally adjudged in any action, suit or proceedings to be liable for negligence or

misconduct in the performance of his duty as such Director or officer, or in respect to any matter in which any settlement or compromise is effected if the total expense, including the cost of such settlement, shall substantially exceed the expense which might reasonably be incurred by such Director or officer in conducting such litigation to final conclusion, and in no event shall anything herein contained be construed as authorizing this Corporation to indemnify any such Director or officer against any liability of the Corporation to which he would otherwise be subject by reason of willful malfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office. The foregoing right of indemnification shall be in addition to any other rights to which any such Director or officer may be entitled as a matter of law or otherwise, and may be effected by the Corporation through the purchase of officers' and directors' liability insurance.

ARTICLE XVIII

When words or phrases relating to the Condominium to be created under said Declaration of Condominium are used herein or in the By-Laws of this Corporation, the meaning thereof shall be determined by the definitions and constructions placed thereon by or under Chapter 711, Florida Statutes, as amended.

ARTICLE XIX

The names and addresses of the subscribers and promoters of this Corporation are as follows:

RALPH M. CARESTIO, JR.	29 Ruth Drive Wilbraham, Mass. 01095
LESLIE J. TRZUSKOSKI	54 Garfield Street Springfield, Mass. 01108
DUDLEY N. HARTT, JR.	Meetinghouse Lane Wilbraham, Mass. 01095
JOHN S. SWART	1053 Frank Smith Road Longmeadow, Mass. 01106

WE, THE UNDERSIGNED, being each of the incorporators hereinabove named, for the purpose of forming a Corporation not for profit pursuant to Chapters 607 and 617, Florida Statutes, do hereby subscribe to these Articles of Incorporation, and have hereunto set our hands and seals this ____ day of _____, 1976.

_____(SEAL)
RALPH M. CARESTIO, JR.

_____(SEAL)
LESLIE J. TRZUSKOSKI

_____(SEAL)
DUDLEY N. HARTT, JR.

_____(SEAL)
JOHN S. SWART

STATE OF FLORIDA
COUNTY OF

BEFORE ME, the undersigned authority, this day personally appeared RALPH M. CARESTIO, JR., who after being duly sworn according to law, deposes and says that he is competent to contract and further acknowledges that he did subscribe to the foregoing Articles of Incorporation freely and voluntarily for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at _____, County of _____ and State of Florida, this ____ day of _____, 1976.

Notary Public

My commission expires:

STATE OF FLORIDA
COUNTY OF

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BEFORE ME, the undersigned authority, personally appeared LESLIE J. TRZUSKOSKI, who after first being duly sworn according to law, deposes and says that he is competent to contract and further acknowledges that he did subscribe to the foregoing Articles of Incorporation freely and voluntarily for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____, County of _____, State of Florida, this _____ day of _____, 1976.

Notary Public

My commission expires:

STATE OF FLORIDA
COUNTY OF

BEFORE ME, the undersigned authority, personally appeared DUDLEY N. HARTT, JR., who after being duly sworn according to law, deposes and says that he is competent to contract and further acknowledges that he did subscribe to the foregoing Articles of Incorporation freely and voluntarily for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at _____, County of _____, and State of Florida, this _____, day of _____, 1976.

Notary Public

My commission expires:

STATE OF FLORIDA
COUNTY OF

BEFORE ME, the undersigned authority, personally appeared JOHN S. SWART, who after being duly sworn according to law, deposes and says that he is competent to contract and further acknowledges that he did subscribe to the foregoing Articles of Incorporation freely and voluntarily for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____ County of _____ State of Florida, this _____ day of _____, 1976.

Notary Public

My commission expires:

CERTIFICATE DESIGNATING REGISTERED AGENT AND STREET ADDRESS OF REGISTERED OFFICE FOR THE SERVICE OF PROCESS WITHIN THIS STATE; ACCEPTANCE BY AGENT.

The following is submitted, in compliance with Florida Statutes, §48.019.

MOON BAY CONDOMINIUM ASSOCIATION, INC., desiring to organize as a corporation under the laws of the State of Florida with its registered office as indicated in the Articles of Incorporation, in the City of Miami, County of Dade, State of Florida, has named BISCAYNE CREDIT, INC, located at Suite 900 Dade Federal Building, 101 East Flagler Street, Miami, County of Dade, State of Florida, as its registered agent to accept service of process within this state at said address.

ACKNOWLEDGMENT:

Having been named to accept service of process for the above stated corporation, at the place designated in this certificate, I hereby accept to act in this capacity and agree to comply with the provision of said Act relative to keeping open said office.

BISCAYNE CREDIT, INC., a Florida corporation,

By: _____

Registered Agent

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REC:

BY-LAWS OF HOON BAY,

A CONDOMINIUM

EXHIBIT "5"

BY-LAWS

OF

MOON BAY CONDOMINIUM ASSOCIATION, INC.

Article I

1) The name of this corporation is MOON BAY CONDOMINIUM ASSOCIATION, INC.

2) The principal office of the corporation is at Rte. e, B0x 279, Key Largo, Florida 33037.

Article II - Purposes

This corporation is organized for the purpose of being a condominium association within the meaning of the Condominium Act of the State of Florida, and in turn for the purpose of operating, governing, administering and managing the property and affairs of the Condominium, to wit: MOON BAY CONDOMINIUM, and to exercise all powers granted to it as a corporation under the laws of Florida, these By-Laws, the Articles of Incorporation and the Declaration of Condominium in which these By-Laws are attached, and further to exercise all powers granted to a condominium association under the Condominium Act, and to acquire, hold, convey and otherwise deal in and with real and personal property in its capacity as a condominium association.

Article III - Directors and Officers

A) Directors

1) The affairs of the corporation shall be managed by a Board of Directors, composed of not less than three (3) nor more than fifteen (15) persons.

2) Directors shall be elected by the members at the annual meeting of members and shall hold office until their successors are elected and shall qualify (except as to the first Board of Directors, whose members are designated in the Articles of Incorporation, and who shall serve until December 31, 1979).

At least ten (10) days before the annual meeting, a complete list of members entitled to vote at such election, together with the residence of each, shall be prepared by the Secretary. Such list shall be open at the office of the corporation for ten (10) days prior to the election for the examination of every member and shall be produced and kept at the time and place of election, subject to the inspection of any member who may be present.

Except as otherwise provided in this subparagraph 2, at the first annual meeting of the members, Directors shall be elected for a term of one (1) year.

Directors shall be elected as follows:

Nominations shall be from the floor at the annual membership meeting, and a vote shall be had by written ballot. There shall be no cumulative voting. All of the Directors shall be elected at the same meeting.

Directors shall be members of the Corporation except that this provision shall not apply to the persons designated to be the first Board of Directors by ARTICLE IX of the Articles of Incorporation.

No director shall receive or be entitled to any compensation for his services as director, but shall be entitled to reimbursement for all reasonable expenses sustained by him as such, if incurred upon the authorization of the Board.

Notwithstanding anything to the contrary herein contained in Article III(A) set forth herein above, it is understood that the corporation developing the property known as MOON BAY CONDOMINIUM, said corporation being MOON BAY, INC. and its principals, are limited by Statute and will be limited hereunder as to their rights of election as Developer of the members of the Board of Directors of this Corporation. Said Developer is given the right hereby to elect a majority of the members of the Board of Directors of MOON BAY CONDOMINIUM ASSOCIATION, INC. until such time as three (3) years after sales by the Developer have been closed on fifty percent (50%) of the Units that will be operated ultimately by the Association; or three (3) months after sales have been closed by the Developer on ninety percent (90%) of the Units that will be operated ultimately by the Association; or when all of the Units that will be operated ultimately by the Association have been completed and some have been sold and none of the others are being offered for sale by the Developer in the ordinary course of business, whichever shall occur first. The Developer shall be entitled to elect not less than one (1) member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business any Units in the Condominium provided that such right may be waived by the Developer at its sole option.

B) Officers

The officers of the corporation shall be: a President, a Vice-President, a Secretary and a Treasurer who shall be members of the Board of Directors, and such other officers as the Board of Directors may appoint. The officers named in the Articles of Incorporation shall serve until the first regular meeting of the Board, and at such meeting the Board shall elect the aforesaid officers. Officers elected at the first meeting of the Board shall hold office until the next ensuing meeting of Directors following the next succeeding annual meeting of members or until their successors shall have been elected and shall qualify.

C) Resignation, Vacancy, Removal

Any director or officer of the corporation may resign at any time, by instrument in writing. Resignations shall take effect at the time specified therein, and if no time is specified, at the time of receipt by the president or secretary of the corporation. The acceptance of a resignation shall not be necessary to make it effective.

When a vacancy occurs on the Board, the vacancy shall be filled by the remaining members of the Board at their next meeting, by electing a person who shall serve until the next annual meeting of members, at which time a director will be elected to complete the remaining portion of the unexpired term.

When a vacancy occurs in an office for any cause before an officer's term has expired, the office shall be filled by the Board at its next meeting by electing a person to serve for the unexpired term or until a successor has been elected by the Board and shall qualify.

A majority of members of the corporation present at any regular or special meeting duly called, may remove any director or officer for cause.

D) Executive Committee

The Board of Directors may, by resolution passed by a majority of the whole Board, designate an Executive Committee, to consist of two or more members of the Board, which, to the extent provided in the resolution, shall have and exercise the powers of the Board of Directors in the management of the business and affairs of the corporation, and may have power to authorize the seal of the corporation to be affixed to all papers which may require it. The Executive Committee shall keep regular minutes of its proceedings and report the same to the Board when required.

Article IV - Powers and Duties of the Corporation and the Exercise Thereof

The corporation shall have all powers granted to it by law, the Declaration of Condominium to which these By-Laws are attached, the Condominium Act, as the same may be amended from time to time, and the Articles of Incorporation, all of which powers shall be exercised by its Board of Directors unless the exercise thereof is otherwise restricted in the Declaration of Condominium, these By-Laws, or by law; and the aforementioned powers of the corporation shall include but not be limited to the following:

- 1) All of the powers specifically provided for in the Declaration and the Condominium Act.
- 2) The power to levy and collect assessments.
- 3) The power to levy and collect special assessments.
- 4) The power to expend monies collected for the purpose of paying the common expenses of the corporation.
- 5) The power to purchase equipment, supplies and material required in the maintenance, repair, replacement, operation and management of the common elements.
- 6) The power to insure and keep insured the buildings and improvements of the condominium as provided for and limited by the Declaration.
- 7) The power to employ the personnel required for the operation of the common elements.

8) The power to pay utility bills for utilities serving the common elements.

9) The power to contract for the management of the condominium and to delegate to its contractor as manager, all of the powers and duties of the corporation, except those things which must be approved by the members.

10) The power to make reasonable rules and regulations and to amend them from time to time, and see to it that all members are notified of such changes in the rules and regulations as may be enacted.

11) The power to improve the condominium property subject to the limitations of the Declaration.

12) The power to enforce by any legal means the provisions of the Articles of Incorporation, the By-Laws, the Declaration of Condominium, and the regulations duly promulgated by the corporation.

13) The power to collect delinquent assessments by suit or otherwise, and to abate nuisance and enjoin or seek damages from unit owners for violation of the provisions of the condominium documents.

14) The power to pay all taxes and assessments which are liens against the common elements.

15) The power to deal with and approve or disapprove of all conveyances as provided for under the terms of the Declaration, and pursuant thereto.

16) The power to select depositories for the corporation funds, and to determine the manner of receiving, depositing, and disbursing corporate funds, and the form of check and the person or persons by whom the same shall be signed, when not signed, as otherwise provided by these By-Laws.

17) The power to possess, enjoy and exercise all powers necessary to implement, enforce, and carry into effect the powers above described, including the power to acquire, hold, convey and deal in real and personal property.

18) The power to enter into, ratify, modify and amend each and every of the agreements and undertakings contemplated by and in the Declaration of Condominium to which these By-Laws are attached.

19) The power to subscribe to and enter into a contract with any person, firm, corporation or real estate management agent of any nature or kind and to provide for the maintenance, operation, repair and upkeep of the Condominium's property.

(a) Said contract may provide that the total operation of said managing agent, firm or corporation shall be at the cost of this corporation. Said contract may further provide that the managing agent shall be paid from time to time a reasonable fee either stated as a fixed fee or as a percentage of the total costs of maintenance, operation, repair

and upkeep or of the total funds of this corporation handled and managed by the managing agent. Such fee, if any, shall be another of the management function costs to be borne by the Association, unless the contract provides to the contrary.

(b) Nothing in this subparagraph 19) or in the Declaration of Condominium shall be deemed to require the Association to maintain the interior of any Condominium Unit, or to enter into any contract or undertaking to provide for the maintenance or upkeep of the interior of the Condominium Units of the Condominium.

20) The power to establish the office of additional officers of this Corporation and to appoint all officers.

21) The power to do all acts required by the licensing authorities to obtain a liquor license for and on behalf of the Association.

22) The power to hold in its own name, but for the benefit of itself and its members, municipal, state and/or federal alcoholic beverage licenses.

Article V - Duties of Officers

A) The President shall:

1) Act as presiding officer at all meetings of the corporation and of the Board of Directors.

2) Call special meetings of the Board of Directors and of members.

3) Sign, with the treasurer, all checks, contracts, promissory notes, deeds, and other instruments on behalf of the corporation, except those which the Board of Directors specifies may be signed by other persons.

4) Perform all acts and duties usually required of an executive to insure that all orders and resolutions of the Board of Directors are carried out.

5) Appoint committees and to be ex-officio member of all committees, and render an annual report at the annual meeting of members.

B) The Vice President shall:

1) Act as presiding officer at all meetings of the corporation and of the Board of Directors when president is absent.

2) Perform other acts and duties required of the president, in the president's absence.

3) Perform such other duties as may be required of him by the Board.

C) Should the President and Vice President be absent from any meeting, the directors shall select from among their members, a person to act as chairman of the meeting.

D) The Secretary shall:

- 1) Attend all regular and special meetings of the members of the corporation and of the Board of Directors and keep all records and minutes of proceedings thereof or cause the same to be done.
- 2) Have custody of the corporate seal and affix same when necessary or required.
- 3) Attend to all correspondence on behalf of the Board of Directors, prepare and serve notice of meetings; keep membership books, and receive all applications for membership, for transfer and lease of units, and present such application to the Board, at its next regular meeting.
- 4) Perform such other duties as the Board may determine and on all occasions in the execution of his duties, act under the superintendence, control and direction of the Board.
- 5) Have custody of the minute book of the meetings of directors and members, which minute book shall at all times be available at the office of the corporation for the information of directors and officers, and act as transfer agent to recordable transfers, and regulations in the corporate books.

E) The Treasurer shall:

- 1) Attend all meetings of the membership and of the Board of Directors.
- 2) Receive such monies as shall be paid into his hands for the account of the corporation, and disburse funds as may be ordered by the Board, taking proper vouchers for such disbursements, and be custodian of all securities, contracts, leases and other important documents of the corporation which he shall keep safely deposited.
- 3) Supervise the keeping of accounts of all financial transactions of the corporation in books belonging to the corporation, and deliver such books to his successor. He shall prepare and distribute to all of the members of the Board at least ten (10) days prior to each annual meeting, and whenever else required, a summary of the financial transactions and condition of the corporation for the preceding year. He shall make a full and accurate report on matters and business pertaining to his office to the members at the annual meeting, and make all reports required by law.

The Treasurer may have the assistance of an accountant or auditor, who shall be employed by the Board of Directors. And in the event the corporation enters into a management agreement, it shall be proper to delegate such of the Treasurer's functions to the management agent as is deemed appropriate by the Board of Directors.

Article VI - Membership

- 1) Membership in the Corporation is limited to owners of the Condominium Units. Membership is automatically conferred upon acquisition of a Condominium Unit, as evidenced by the filing of a deed to such Unit, or as provided in the de-

claration for transfer of membership upon the death of a Unit Owner. Membership is an incident of ownership and is not separately transferable.

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2) There shall be one person with respect to each Unit ownership who shall be entitled to vote at any meeting of the Association. Such person shall be known (and is hereinafter referred to) as a "Voting Member". If a Unit is owned by more than one person, the Owners of said Unit shall designate one of them as the Voting Member, or in the case of a Corporate Unit Owner, an officer or employee thereof shall be the Voting Member. The designation of the Voting Member shall be made as provided by and subject to the provisions and restrictions set forth in the Declaration of Condominium of the Association. A vote of a Condominium Unit is not divisible. The ownership of a Boat Slip shall not entitle the Owner thereof to vote in the affairs of the Condominium Association, nor shall such ownership increase the vote which a Unit Owner would otherwise have in the affairs of said Association.

3) Transfer of Membership - Membership in the Corporation may be transferred only as an incident to the transfer of title to a Condominium Unit in the manner provided in the Declaration of Condominium, and shall become effective upon the recording of a deed to such Condominium Unit.

4) Membership shall terminate upon the transfer of title to a Condominium Unit, or upon the death of the Owner of a Condominium Unit.

ARTICLE VII - Meetings, Special Meetings, Quorums, Proxies

A) Meetings of Members

1) All meetings of the Corporation shall be held at the office of the Corporation, or may be held at such time and place as shall be stated in the notice thereof.

Annual Meetings. Annual members' meetings shall be held at the office of the Corporation upon a date appointed by the Board of Directors, which shall fall on the second Monday of January each year. No meeting shall be held on a legal holiday. The meetings shall be held at such time as the Directors shall appoint from time to time. The first annual meeting of the Members shall not occur until December 31, 1979, or one month after fifty Per Cent (50%) of the Condominium Units have been sold, whichever occurs first.

Each annual meeting shall commence at 7:00 P.M. and the Order of Business shall be as follows: (1) Roll call of Unit Owners; (2) Proof of notice of meeting; (3) Reading of minutes of last annual meeting; (4) Report of Officers; (5) Report of Committees; (6) Election of Directors; (7) Old Business; (8) New Business; (9) Adjournment.

Special Meetings. Special meetings shall be held whenever called by the President, or by a majority of the Board of Directors and must be called by the Secretary, upon receipt of a written request from members of the corporation owning Fifteen Per Cent (15%) of the condominium units. Business transacted at all special meetings shall be confined to the objects and action to be taken, as stated in the notice of the meeting.

Proxies. Vote may be cast in person or by proxy. Proxies must be filed with the Secretary of the corporation at least 12 hours prior to the meeting. A proxy shall be valid

and entitle the holder thereof to vote until revoked in writing by the grantor, such revocation to be lodged with the Secretary, or until the death or legal incompetence of the grantor.

Quorum. A quorum for the transaction of business at the annual or any special meeting shall consist of a majority of the unit owners represented either in person or by proxy; but the unit owners present at any meeting although less than a quorum, may adjourn the meeting to a future date.

2) Voting Required to Make Decisions

When a quorum is present at any meeting the vote of a majority of the members present in person or by proxy shall decide any question brought before the meeting, unless the declaration or these by-laws or any applicable statute provide otherwise, in which event the vote prescribed by the declaration or the by-laws or such statute shall control.

B) Directors Meetings

1) The Annual Meeting of the Board of Directors shall be held at the office of the corporation, immediately following the adjournment of the Annual Meeting of members. The Board of Directors may establish a schedule of regular meetings to be held at such place as the directors may designate, in which event no notice need be sent to the directors once said schedule has been adopted.

2) Special Meetings of the Board of Directors may be called by the President, on five (5) days' notice to each director (in writing) to be delivered by mail or in person. Special meetings may also be called on written request of three directors. All notices of special meetings shall state the purpose.

3) Quorum. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the acts of a majority of directors present at such meeting at which a quorum is present, shall be the acts of the Board of Directors. If at any meeting at which a quorum is not present, the presiding officer may adjourn the meeting from time to time, and at any such adjourned meeting, any business which might have been transacted at the meeting as originally called, may be terminated without further notice.

Article VIII - Notice

Written notice of the annual meeting of members shall be served upon or mailed to each member entitled to notice, and shall be posted at a conspicuous place on the Condominium Property, at least fourteen (14) days prior to the meeting.

Written Notice of every meeting of the association, stating whether it is a regular meeting or a special meeting and stating the time, place and object of such meeting shall be served upon or mailed to each member entitled to vote at least five (5) days before such meeting.

Waiver. Nothing herein is to be construed to prevent unit owners from waiving notice of meetings or acting by written agreement without meetings.

Article IX - Procedure

Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with

the Articles of Incorporation and By-Laws of the corporation or with the Statutes of Florida.

Article X - Assessments and Manner of Collection

The Board of Directors has the sole power to and shall from time to time fix and determine the amounts necessary to pay the common expenses of the Condominium. Common expenses include those expenses described in the Declaration of Condominium and any other expenses designated as common expenses by the Board of Directors, under the authority and sanction of both the Declaration and the Condominium Act.

Funds for the payment of common expenses shall be assessed against and shall be a lien against the Condominium Units in the proportion or percentage of sharing common expenses provided in the Declaration of Condominium, as provided in the Declaration of Condominium and the Condominium Act.

Regular assessments shall be paid by the Members on the 15th of each month.

Special assessments, should they be required by the Board of Directors, shall be levied and paid in the same manner as regular assessments, unless the Declaration of Condominium shall otherwise provide.

When the Board of Directors has determined the amount of any assessment, the Secretary shall transmit a statement of such assessment to each Condominium Unit Owner. Assessments are payable at the office of the Corporation.

Assessments are necessarily made upon projections and estimates of the Board of Directors, and may be in excess of, or less than the sums required to meet the cash requirements of the Condominium, in which event the Board of Directors may increase or diminish the amount of an assessment, and make such adjustments in cash, or otherwise as they shall deem proper, including the assessment of each Member of his proportionate share of any deficiency. Notice of all changes in assessments shall be given to all Unit Owners.

Assessments shall not include charges for utilities separately charged and metered to each apartment, nor charges for alterations, repairs, maintenance, improvements, or decorating within the interior of any Unit.

Assessments are due on the dates stated in the notice of assessment, and thereafter shall bear interest at Ten Per Cent (10%) until paid.

In the event an assessment is not paid within thirty (30) days of the date it is due and payable, the Corporation, through the Board of Directors, may proceed to enforce and collect said assessment from the delinquent Owner in any manner provided for by the Condominium Act, the Declaration and these By-Laws. Each Condominium Unit Owner shall be individually responsible for the payment of assessments against his Unit and for the payment of reasonable attorneys fees and costs incurred by the Corporation in the collection of sums due, and the enforcement of any lien held by the Corporation.

Article XI - Fiscal Matters

Fiscal Year. The fiscal year of the Corporation shall begin on the 1st day of January in each year, provided, however, that the Board of Directors is authorized to change to a different fiscal year, at such time as the Board of Directors deems it advisable.

Depositories. The funds of the Corporation shall be deposited in a bank or banks in Dade or Broward County, Florida, in an account for the Corporation under resolutions approved by the Board of Directors, and shall be withdrawn only over the signature of the Treasurer and countersigned by the President, or the Vice President. Said funds shall be used only for corporate purposes.

If necessary, and demanded by mortgages, separate accounts shall be established to maintain and disburse escrow funds, required by mortgages, to meet mortgage requirements as to establishment of escrows for real estate taxes and insurance respecting condominium parcels.

Fidelity Bonds. Fidelity bonds may be required by the Board of Directors from all officers and employees of the corporation, and from any contractor handling or responsible for corporation funds. The premiums for such bonds shall be paid by the corporation.

Records. The Corporation shall maintain accounting records according to good accounting practice which shall be open to inspection by Unit Owners at reasonable times. Such records shall include a record of receipts and expenditures account for each Unit Owner which shall designate the name and address of the Unit Owner, the amount of each assessment, the due dates and amount of each assessment, the amounts paid upon the account, and the balance due, a register for the names of any mortgage holders or lien holders who have notified the Corporation of their liens, and to which lienholders the Corporation will give notice of default if required. The Corporation shall furnish a reasonable written summary of the foregoing to each Unit Owner at least annually.

Annual Statement. The Board of Directors shall present at each annual meeting, a full and clear statement of the business and condition of the corporation.

Insurance. The Corporation shall procure, maintain and keep in full force and effect, all insurance required by the Declaration, pursuant to the provisions of the Declaration.

Article XII - Administrative Rules and Regulations

The Board of Directors may, from time to time, adopt rules and regulations governing the details of the operation and use of the common elements, and such other rules and restrictions as are designed to prevent unreasonable interference with the use of the units, limited common elements, and common elements, by the Members and all Members shall abide thereby, provided that said rules and regulations shall be equally applicable to all Members, and uniform in their application and effect.

Those restrictions in the Declaration of Condominium which in any way limit the use of the individual Units or of the common elements are declared to be house rules and regulations.

Article XIII - Violations and Defaults

In the event of a violation (other than non-payment of an assessment by a Unit Owner) of any of the provisions of the Declaration, these By-Laws, the Rules and Regulations of the Corporation, the Articles of Incorporation or any provision of the Condominium Act, the Corporation, after reasonable notice to cure, not to exceed thirty (30) days, shall have all rights and remedies provided by law, including without limitation (and such remedies shall or may be cumulative) the right to sue for damages, the right to such injunctive relief, and in the event of a failure to pay assessments, the right to foreclose its lien provided in the Condominium Law; and in every such proceeding, the Unit Owner at fault shall be liable for court costs and the Corporation's reasonable attorneys' fees. If the Corporation elects to enforce its lien by foreclosure, the Unit Owner shall be required to pay a reasonable rent for his Condominium Unit during litigation and the corporation shall be entitled to the appointment of a receiver to collect such rent. A suit to collect unpaid assessments may be prosecuted by the Corporation without waiving the lien securing such unpaid assessments.

Article XIV - Amendment of By-Laws

Subject always to the provisions of the Declaration of Condominium, these By-Laws may be amended, modified or rescinded in accordance with the Declaration of Condominium or by a resolution adopted by a majority of the Board of Directors at any duly called meeting of the Board, and thereafter submitted to the Members at any duly convened meeting of the Members and approved by a fifty-one Per Cent (51%) vote of the Members present or by proxy, provided there is a quorum, and further provided that the notice of such meeting of Members specifying the proposed change is given in the notice of meeting, and further provided that the voting requirements of the Declaration of Condominium are met in full, in the appropriate cases. Notice may be waived in writing by any Member. Any Member of the Corporation may propose an amendment to the Board, and the Board shall act upon such proposal, at its next meeting.

Article XV - Validity

If any by-law, or regulation, or rule shall be adjudged invalid, such fact shall not affect the validity of any other by-law, rule, or regulation.

Article XVI - Construction to be Consistent with Declaration of Condominium

These By-Laws and the Articles of Incorporation of the corporation shall be construed in case of any ambiguity or lack of clarity consistent with the provisions of the Declaration of Condominium.

The foregoing was adopted as the By-Laws of MOON BAY CONDOMINIUM ASSOCIATION, INC. a corporation not for profit, under the laws of the State of Florida, at a meeting of the members of said corporation duly noticed, at which all members were present, by the unanimous vote of the members on the _____ day of _____, 1976.

Secretary

Approved

President

OFF
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RULES AND REGULATIONS
OF MOON BAY, A CONDOMINIUM

EXHIBIT "6"

RULES AND REGULATIONS
OF
MOON BAY CONDOMINIUM ASSOCIATION, INC.

1. All Condominium Units shall be used solely for residential purposes. No Condominium Unit, whether owned or leased, may be used to conduct any trade or business, the conduct of which would require the license or certification from any municipal, county, state or federal agency or licensing authority.

2. Unit Owners and Occupants shall not use or permit any use of their premises which would constitute an immoral, improper, offensive, or unlawful use; further, no use may be made which would be in violation of any federal, state, county or municipal law, statute, ordinance or administrative rule or regulation, or would be injurious to the reputation of the Condominium.

3. Children, whether they be guests or residents, shall not be permitted to play in the walks, corridors, elevators or stairways of the Condominium Property.

4. The Common Elements shall be used for furnishing the services and facilities for which they were reasonably intended, and said Common Elements shall not be abused, defaced, littered or obstructed in any way.

5. All structural changes or alterations to any Unit, or any Common Element shall be made only pursuant to the Declaration of Condominium.

6. No nuisance shall be allowed upon the Condominium Property nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium Property by its residents. Unit Owners and Occupants shall be permitted to keep pets provided that the maintenance of such pets in their Condominium Units shall not constitute a nuisance. No pet shall be allowed out of the direct personal accompaniment of its owner or agent and must at all times be carried or walked on a short leash and at heel when in any of the common areas of the Condominium. It shall be the obligation of the Association to promulgate and enforce whatever rules and regulations it deems appropriate to prevent the abuse of the pet privilege by those Unit Owners and Occupants having pets. Any pets causing or creating a nuisance or disturbance shall be permanently removed from the Condominium Property forthwith upon written notice from the Board of Directors of the Association, acting through one of the duly elected Officers of the Association. The determination as to whether there has been any violation of this Rule 6, shall be made solely by the Association.

7. No radio or television antenna, or any wiring for any purpose may be installed upon the exterior of the building without the express written approval of the Association.

8. Televisions, radios and musical instruments must be used at such times as will provide a minimum of disturbance to other Apartment Owners. The use of musical instruments after 9:00 P.M. and before 10:00 A.M. is prohibited.

9. No unit owner or resident shall direct, supervise or in any manner attempt to assert any control over any of the employees of the Association, nor shall he attempt to send any of such employees upon private business of such unit owner or resident.

10. The use of all recreational facilities shall at all times be governed by the Rules and Regulations promulgated by the Association.

11. The Association, through its Managing Agent, may retain a passkey to each Condominium Unit for utilization only in the event of an emergency, such as fire, leakage, etc. No Condominium Unit Owner shall alter any lock or install a new lock on any door of the premises without the written consent of the Association. In the event such consent is given, the Condominium Unit Owner shall provide the Association with an additional key for the use of the Association pursuant to its right of access to each Condominium Unit.

12. No awnings or other projections shall be attached to the outside walls of the building.

13. The balconies, terraces and exterior staircases shall be used only for the purposes intended, and shall not be used for the hanging of garments or other objects, or for the cleaning of rugs or other household items.

14. No garbage cans, supplies, milk bottles or other articles shall be placed in the halls or on the staircase landings, nor shall anything be hung from the windows or balconies or placed upon the window sills.

15. No Unit Owner shall in any way affix any "for sale" or "for rent" signs or any other kind of notice to the exterior of his Condominium Unit nor in any other way allow any signs to be visible to the general public from within his Condominium Unit.

16. No Unit Owner shall, without first obtaining the prior written consent of the Board of Directors may make any alteration, modification, decoration, repair, replacement, enclosure or change of the Common Elements, Limited Common Elements, balcony or terrace or the exterior surface of any door or doorjamb which opens into any of the Common Elements or common areas of the Condominium Property, or any exterior hallway lights, including but not limited to the erection of any awning, fixtures, storm shutters, or other devices, paintings, or wall coverings, or any other changes or alterations which would in any way or manner whatsoever change the physical or visual appearance of any portion of the Condominium Property. Open private balconies may be enclosed with screen or glass (fixed or sliding) providing they are the same type, color, material, and size as the sliding glass doors dividing the living room from the private balcony.

17. The building rules and regulations heretofore enumerated shall be deemed in effect until amended by the Association and shall apply to and be binding upon all Condominium Unit Owners. The Unit Owners shall, at all times, obey said rules and regulations and be responsible for their full and faithful observance by their families, guests, invitees, servants, lessees, and other persons over whom they exercise control and supervision.

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FORM OF WARRANT DEED
OF PORT BAY, A CANTONMENT

EXHIBIT "7"

SPECIAL WARRANTY DEED

THIS INDENTURE, made this ____ day of _____, 197____, by and between MOON BAY, INC., a Florida corporation, hereinafter called "Grantor", and _____

whose address is _____ of the County of _____ and State of _____, hereinafter called "Grantee", _____ heirs, executors, administrators, personal representatives, successors and assigns, wherever the context so requires or admits:

W I T N E S S E T H:

That the said Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations to it in hand paid by the Grantee, the receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirms unto the Grantee the following described land, situate, lying and being in the County of Monroe, State of Florida and more particularly described as follows:

Condominium Unit No. _____ of MOON BAY, A CONDOMINIUM, according to the Declaration of Condominium thereof dated the ____ day of _____, 197____, recorded in Official Records Book _____, at Page _____ of the Public Records of Monroe County, Florida, together with an individual interest in the Common Elements appurtenant thereto, all according to the Declaration of Condominium and Exhibits attached thereto.

This conveyance is subject to the following:

1. Taxes and assessments for the year 19____ and subsequent years.
2. Conditions, restrictions, limitations and easements of record.
3. Any adverse claim to any portion of said land which has been created by artificial means or has accreted to any such portion so created, and riparian rights, if any, and that portion of the subject premises being artificially filled land in what was formerly navigable waters, is subject to the terms, conditions and reservations contained in the Submerged Lands Act (43 U.S.C. 1301 et. seq.) and the rights and easements for commerce, navigation and fisheries.

4. Declaration of Condominium of MOON BAY, A CONDOMINIUM, dated _____, 197____, and recorded in Official Records Book _____ at Page _____, of the Public Records of Monroe County, Florida, including all Exhibits thereto.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To have and to hold the same in fee simple forever.

And the Grantor hereby covenants with said Grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under the said Grantor.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed by its duly authorized Officers and the seal of said Corporation to be affixed hereto, the day and year first above written.

WITNESSES: MOON BAY, INC., a Florida corporation

By: _____

Attest: _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____ and _____ respectively, as the _____ and _____ of MOON BAY, INC., a Florida corporation, and after first being duly sworn, they acknowledged that they were duly authorized to and did execute the foregoing document, in their said corporate capacity and did affix the seal of said Corporation thereto; that the contents thereof are true and correct and that the execution thereof constitutes the free act and deed of said Corporation.

DATED this _____ day of _____, 197____.

Notary Public

My commission expires:

ACKNOWLEDGEMENT & ACCEPTANCE BY GRANTEE

Grantee, by acceptance and execution of this Deed, acknowledges that this conveyance is subject in every respect to the Declaration of Condominium recorded in Official Records Book _____, at Page _____, of the Public Records of Monroe County, Florida and all Exhibits attached thereto and incorporated by reference therein.

WITNESSES:

(SEAL)

(SEAL)

My commission expires:

NOTARY PUBLIC

BEFORE me, the undersigned authority, personally appeared _____ known to me to be the individual(s) named in and who executed the foregoing Acknowledgment and Acceptance by me and upon oath by me duly administered, acknowledged before me that same was executed for the purpose therein set forth.

DATED this _____ day of _____, 19____.

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ST. JOHN DE EVANGELISTA
COUNTY OF

ESTIMATED OPERATING BUDGET
OF MOON BAY, A CONSOLIDATION

MOON BAY CONDOMINIUM ASSOCIATION

Route 3
P. O. Box 279
Key Largo, Fla.

MONTHLY/ANNUAL INCOME EXPENSE BUDGET AT MAY 23, 1977

<u>INCOME</u>	<u>Monthly</u>	<u>Annually</u>
Association Assessments	\$7,155	\$85,860
 <u>EXPENSE</u>		
RENT FOR RECREATIONAL AND COMMON AREAS		-No Recreation Lease-
TAXES ON LEASED AREAS		-No Leased Areas-
ADMINISTRATIVE		
Legal and Audit	\$ 50	\$ 600
Office Supplies	25	300
OPERATING		
Elevator	190	2,280
Exterminating	100	1,200
Trash Removal	220	2,640
Pool	150	1,800
Sewage Plant Service	170	2,040
UTILITIES		
Electricity	850	10,200
Water	1,500	18,000
Gas	-0-	-0-
REPAIR & MAINTENANCE		
Live-in Maintenance Man	410	4,920
Apartment	300	3,600
Salary		
Second Maintenance Man -		
Salary only	530	6,360
Payroll Taxes, 15%	125	1,500
Supplies	100	1,200
Rec. Room AC Repair	10	120
T.V. Antenna Repair	10	120
Recreation Areas Repair	20	240
CONTINGENCIES	100	1,200
FIXED EXPENSES		
Taxes & Licenses	25	300
Insurance:	2,170	26,040
Windstorm Insurance	\$16,080	
Hazard Insurance	6,894	
Flood Insurance	323	
Anticipated Increase at 9/1/77		
per Mass. Mutual:	2,743	
Total	\$26,040	
RESERVES	100	1,200
TOTAL EXPENSES	\$7,155	\$85,860

MOON BAY CONDOMINIUM ASSOCIATION

Key Largo, Fla.

May 23, 1977

<u>NO. UNITS</u>	<u>TYPE OF UNIT</u>	<u>BLDG.</u>	<u>MONTHLY ASSESSMENT</u>
40	2 BR Apt.	A	\$64.49 each
24	2 BR Apt.	B	64.31 each
3	3 BR Apt.	B	84.19 each
2	Penthouse Apt.	B	93.16 each
16	Townhouse	C	74.39 each

64	Boat Slip		\$21.92 each

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RECEIPT, ACCEPTANCE & WAIVER
OF MOON BAY, A CONDOMINIUM

EXHIBIT "9"

RECEIPT, ACCEPTANCE AND WAIVER

RE: PURCHASE OF CONDOMINIUM UNIT NO. _____ OF BUILDING _____ OF MOON BAY, A CONDOMINIUM, according to the Declaration of Condominium thereof recorded in Official Records Book _____ at Page _____ of the Public Records of Monroe County, Florida, ("the Condominium Unit").

The undersigned, having closed and accquired title to the above Condominium Unit on this date, in consideration of the conveyance of said Condominium Unit to the undersigned, hereby acknowledge, covenant and agree as follows:

1. MOON BAY, INC., a Florida corporation, ("Seller"), has fully performed and complied with all of its obligations, covenants and agreements contained in the Agreement of Purchase and Sale entered into between the undersigned and Seller pertaining to the purchase of the Condominium Unit, and also any and all other contracts or agreements entered into between the undersigned and Seller, all of such obligations, covenants and agreements having been merged with the closing of title to the Condominium Unit.

2. The undersigned acknowledge that they have received copies of all Condominium Documents. They further acknowledge that they have had the opportunity to examine and do hereby ratify, approve and confirm all of the terms and provisions of all of said Documents, and do covenant and agree to comply with and be bound by all of the terms, covenants, conditions and agreements contained therein.

3. The initial officers and directors of MOON BAY CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit ("the Condominium Association"), are persons identified with and selected and controlled by Seller, and the undersigned waive all objections thereto. The undersigned further ratify, confirm, approve and adopt all of the actions taken by the said officers and directors on behalf of said Condominium Association.

4. The undersigned have inspected the Condominium Unit and the property submitted to a condominium form of ownership by the referenced Declaration of Condominium (and also, where applicable, all of the personal property sold by Seller to the undersigned and located within the Condominium Unit) and hereby accept them in an "as is" condition, except for those items specifically enumerated on the closing checklist heretofore executed between the parties, hereby acknowledging and agreeing that the undersigned are satisfied as to the conditions thereof and that all of Seller's warranties and representations pertaining to same have been satisfied and complied with.

5. In purchasing the Condominium Unit and closing and acquiring title thereto, the undersigned have relied solely upon the statements and representations contained in the Agreement of Purchase and Sale and the Condominium Documents, and have not relied on: (a) any advertising or promotional material, including but not limited to any radio, television, newspaper or other advertising; or (b) any other representations or warranties which may have been made by Seller, either orally or in writing.

C. The undersigned hereby acknowledge that Seller has relied upon the acknowledgements, covenants and agreements of this Receipt, Acceptance and Waiver in proceeding to close the sale of the Condominium Unit, and that the execution and delivery hereof is an express condition precedent to such closing.

THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED WHICH EXTEND BEYOND THOSE DESCRIBED ON THE FACE HEREOF, INCLUDING BUT NOT LIMITED TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE OR PURPOSE.

IN WITNESS WHEREOF, the undersigned have herunto affixed their hands and seals at _____, County of _____, State of Florida, this _____ day of _____, 197__.

IN THE PRESENCE OF:

_____	_____ (SEAL)
_____	_____ (SEAL)

FORM OF AGREEMENT OF PURCHASE

& SALE OF MOON BAY, A CONDOMINIUM

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATION OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY FLORIDA STATUTES SECTION 711.70(1) TO BE FURNISHED BY A DEVELOPER TO A PURCHASER.

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE, MADE AND ENTERED into at Key Largo, Florida, this _____ day of _____, 197____, by and between MOON BAY, INC., a Florida corporation, ("Seller") and _____,

("Purchaser"), whose mailing address is: _____.

1. THE PROPERTY: Seller agrees to sell and convey to the Purchaser and Purchaser agrees to acquire from the Seller, No. _____ of Building No. _____, of MOON BAY, A CONDOMINIUM, ("Moon Bay"). The Unit is a _____ bed-room and _____ bath unit, together with an undivided interest in the Common Elements appurtenant thereto, as set forth in the Declaration of Condominium and the Exhibits attached thereto of MOON BAY CONDOMINIUM ASSOCIATION, INC., a non-profit Florida corporation, located at Route 3, Box 279, Key Largo, Florida, herein after referred to as the "Property", subject to the following terms, covenants and conditions.

2. PURCHASE AND PRICE AND TERMS OF PAYMENT: Purchaser agrees to pay unto Seller and Seller agrees to accept from the Purchaser as the purchase price for the Unit, the sum of \$ _____, which said purchase price shall be payable as follows:

A) Amount previously deposited in the sum of: \$ _____

B) A deposit which has been paid simultaneously with the execution of this Agreement and delivered to _____

in escrow, hereinafter referred to as the "Escrow Agent", in an interest bearing account, to be paid by the Escrow Agent as a portion of the purchase price at the closing or to be otherwise disbursed by the Escrow Agent as hereinafter provided in the sum of: \$ _____

C) The principal amount of the institutional first mortgage to be secured by the Purchaser, at the Purchaser's sole cost and expense, which said sum will be delivered as set forth in Paragraph "10" herein the sum of: \$ _____

D) The balance of the purchase price subject to increase or decrease by virtue of prorations and closing costs, to be paid in cash at the time of closing, in the sum of: \$ _____

TOTAL PURCHASE PRICE

\$ _____

3. CONVEYANCE AND TITLE: The Unit will be conveyed by the Seller to the Purchaser by Special Warranty Deed, subject only to: Taxes for the year in which the closing shall take place; conditions, restrictions, limitations and easements of record; any mortgage on the Unit executed by Purchaser; and all of the covenants, liens, restrictions, easements and limitations contained in the Condominium Documents and provided for by the Condominium Act, and as set forth in the Special Warranty Deed which is attached as an exhibit to the Condominium Documents.

4. ADJUSTMENTS AND CLOSING COSTS: Purchaser shall pay, in addition to the purchase price, the following costs at closing of title:

A) A closing charge payable to Seller in a sum equivalent to one per cent (1%) of the purchase price (Seller shall use a portion of same to pay the cost of recording the Special Warranty Deed, Florida documentary stamps and surtax, required to be affixed to the Special Warranty Deed; and

B) Mortgage fees and costs to the Institutional Lender or to Seller if advanced on behalf of Purchaser; and

C) A contribution to the working capital of the Condominium Association in an amount equal to one and one-quarter percent (1-1/4%) of the purchase price (exclusive of the cost of extras). Real estate taxes assessed to the Unit, Unit assessments and any other proratable items will be prorated as of the scheduled closing of title.

5. TITLE INSURANCE:

A) Seller shall make available to Purchaser an Owner's Title Insurance Policy and, if Purchaser is obtaining a mortgage in connection with his purchase, a mortgagee title insurance policy, through a title company doing business in Dade or Monroe Counties, Florida, which policy shall be subject only to those matters as specified in Paragraph "3" above, and the standard printed exceptions customarily contained in Owner's Title Insurance Policies in the State of Florida. The availability of such policy shall be conclusive and binding on the parties that title is insurable. Purchaser acknowledges that he has been informed that he is not required to purchase the title insurance made available by Seller, or if he does not purchase it, to pay the costs of the same, but may provide his own title insurance in accordance with the following provisions.

B) Purchaser further acknowledges receipt of Seller's "Anti-Coercion Title Insurance Letter" ("Letter") which provides that Purchaser shall have the right to obtain title insurance through a title company of his own choice, provided, within 30-days after the date of this Agreement, he completes and returns to Seller the "Letter" designating the title insurance company he has elected to use. In the event Purchaser fails to designate a title company in the manner and within the time period as above described, it shall be deemed that Purchaser has agreed to accept the title insurance made available by Seller.

C) If Purchaser elects to use his own title company, then within 60-days after the date of this Agreement, he must deliver to Seller an American Land Title Association (ALTA) Owner's Title Commitment and (ALTA) Mortgage Title Commitment, if applicable, containing only those exceptions as specified in Paragraph "3" herein. If Purchaser fails to deliver the

commitment(s) to Seller as aforesaid, it shall be deemed that Purchaser has agreed to accept the title insurance made available by Seller.

D) In the event the scheduled closing date is within sixty (60) days of the date of this Agreement, then for purposes of this Paragraph "5", Purchaser shall deliver the "Letter" and the title commitments to Seller within fifteen (15) days after the date of this Agreement.

E) Purchaser shall pay all costs and charges in connection with the issuance of title insurance whether obtained through Seller or otherwise. SELLER SHALL NOT PROVIDE PURCHASER WITH AN ABSTRACT OF TITLE.

6. DATE AND PLACE OF CLOSING: The closing of the purchase and sale of the Unit shall be on a date and at a time and place designated by Seller upon not less than fifteen (15) days prior written notice to Purchaser. Seller may, if it deems necessary, reasonably delay the closing date and shall incur no liability by so doing. In the event Purchaser, for any reason, fails to close on the date set for closing as set forth herein, and the Seller (in its sole discretion) elects to close with the Purchaser at a later date, all prorations shall be as of the original date set for closing, and in addition, Purchaser agrees to pay Seller interest at the rate of nine percent (9%) per annum on the full amount of the purchase price from the date originally set for closing to the actual date of closing, to compensate Seller for its carrying charges on the Unit; provided however, that nothing herein shall be considered as requiring the Seller to close with the Purchaser in the event Purchaser shall fail to close on the closing date originally set by Seller. At the option of Seller, the closing proceeds and/or closing documents will be escrowed with a bank, title company, or institutional lender for a period of not more than twenty (20) days after closing to permit Seller to obtain a Satisfaction of or a Partial Release from the existing mortgages.

Special

At closing of title, Seller will deliver to Purchaser a recordable/Warranty Deed, in a form substantially similar to that reflected as an Exhibit to the Declaration of Condominium and Purchaser shall pay to the Seller the balance of the purchase price, which shall be paid by way of cash or cashier's check drawn on a bank doing business in Dade or Monroe County, Florida, and Purchaser shall execute and deliver all instruments (to Seller's and Institutional Lender's satisfaction) for the closing of title, including the execution of the Receipt, Acceptance and Waiver Agreement, a letter of instruction to the Escrow Agent to release the escrow deposit, together with such other documents as may be reasonably required to consummate this purchase and sale.

7. CREATION OF CONDOMINIUM REGIME:

A) Purchaser understands and consents to the submission of the Unit to a Condominium form of ownership, and the Seller will (and is hereby authorized) to file with the Clerk of the Circuit Court of Monroe County, Florida, a Declaration of Condominium, together with all Exhibits necessary or desired in connection therewith, the said Declaration and Exhibits thereto being hereafter collectively referred to as the "Condominium Documents". It is acknowledged and agreed that Purchaser's Unit shall include a share of the Common Elements and all of the particulars of Purchaser's interest in and to the Unit are to be determined solely and only by reference to the Condominium Documents.

Seller retains the right to modify the Condominium Documents, if any modification is required by an Institutional Lender provided that any such changes or modifications shall not in any way or manner detract from the rights of the Purchaser, and provided further that the Purchaser shall be given a copy of any such modification in accordance with applicable Florida Statutes.

B) Seller reserves the right to make such modifications, additions or deletions in or to the property as may be approved or reasonably required by any Lending Institution designated by the Seller to make construction loans, and/or permanent mortgages to the Seller, or any Lending Institution making mortgage loans on the Units in the Condominium to the Seller and/or Purchasers or by any appropriate governmental authority, desired by Seller (in Seller's discretion), provided that none of the same shall;

- (i) Increase the purchase price of the Unit being sold hereunder;
- (ii) Require a material adverse physical modification of the Unit being sold hereunder;
- (iii) Decrease the financial obligation of the Seller as a Unit Owner.

C) If, at any time prior to the closing on the purchase and sale of the first Unit of the Property, Seller, in its sole discretion elects not to submit the Property to condominium ownership, then and in such event, the Escrow Agent will return to the Purchaser the deposit this day made, and this Agreement shall forthwith be cancelled, terminated, and of no further force or effect, and the Purchaser and Seller will be released of all further liability hereunder.

8. CONDOMINIUM DOCUMENTS: Simultaneously with the execution of this Agreement, Seller has delivered to Purchaser, and Purchaser does hereby acknowledge receipt of copies of the Condominium Documents, including the Declaration of Condominium, Survey, Percentages of Interest in the Common Elements, Articles of Incorporation and By-Laws of the Condominium Association, Rules and Regulations of the Condominium, Projected Operating Budget, Special Warranty Deed, Sales Brochure, and a Floor-Plan of the Unit, as well as a Prospectus, all of which are required by applicable Florida Statutes, and all of which are hereby approved and accepted by Purchaser.

The Condominium Documents will grant Seller certain rights pertaining to unsold or acquired Units in the Property including but not limited to the right to sell, rent and/or mortgage same without the approval of the Condominium Association. Purchaser is referred to the Condominium Documents for a full statement of Seller's rights in this regard.

9. PURCHASE AGREEMENT SUBORDINATE TO FINANCING: This Purchase Agreement and all rights hereunder are subordinate and inferior to any mortgage (whether or not the same is also permanent financing for the Unit) placed by the Seller or its nominee upon the Unit and the appurtenances thereto, whether such mortgage shall be executed and/or delivered before or after the date of execution of this Agreement. In the event any lender contemplated by this Article shall require the execution of a Subordination Agreement, Purchaser shall execute such Agreement suitable to the lender to effectuate this Article, and this Article shall be deemed self-operative. The Subordination Agreement to be executed by the Purchaser as provided for herein shall be without any personal liability on the part of Purchaser. Seller shall cause any such mortgage encumbering the Unit to be satisfied simultaneously with the closing on said Unit.

10. MORTGAGE FINANCING: If a portion of the purchase price is to be paid by a mortgage on the Unit, as provided in Paragraph "2(C)" hereof, then and in such event, as soon as practicable, Purchaser agrees to forthwith file the necessary application and execute all documents required by an Institutional Lender designated or approved by Seller, and to diligently pursue the said application and to supply the said Lender with all information and further documentation required. "Institutional Lender" shall mean a federal or state bank, a savings and loan association, insurance company, pension fund, real estate investment trust, or any other institution commonly or customarily classified as an "Institutional Lender". The interest rate, term and closing costs for such mortgage shall be the then prevailing rate being charged by the Institutional Lender and the mortgage shall be upon such terms, terms and conditions as are customarily required by the Institutional Lender. Purchaser shall pay all mortgage fees, closing costs and other costs required by the Institutional Lender, including but not limited to abstracting, documentary stamps on mortgage note, intangible tax on mortgage, recording mortgage, escrow for taxes and insurance, prepaid interest, credit report, mortgage title insurance and the Lender's attorney's fees.

If Purchaser is unable to obtain a Commitment for the mortgage provided for herein within thirty (30) days from the date hereof, Purchaser agrees to give Seller notice of that fact, and the Seller shall have the option, in its sole discretion, to either:

A) Cancel and terminate this Agreement, in which event the deposit will be returned by the escrow agent to Purchaser and the parties will be released and discharged of and from all further duties or obligations hereunder; or

B) Seller shall have the option to accept on its own behalf a mortgage from Purchaser (or to arrange for the placing of such a mortgage), provided that the said mortgage will bear interest at a rate not to exceed nine and one-half percent (9-1/2%) per annum, will be payable in equal monthly installments over twenty (20) years, and will provide for closing costs and fees not to exceed four per cent (4%) of the mortgage amount. The mortgage will contain such terms as are customary by savings and loan associations doing business in Dade and Monroe Counties, Florida.

In the event Purchaser does not give Seller written notice of its inability to obtain the mortgage provided for herein within thirty (30) days from the date hereof, it will be conclusively presumed that Purchaser has either obtained the said mortgage or has elected not to obtain a mortgage, and the provisions of this paragraph will be cancelled and of no further force and effect. Seller shall have the right, at its option and in its sole discretion, to extend and enlarge the said thirty (30) day period provided that no such extension or enlargement shall be of any force or effect unless the same is in writing and signed by the Seller.

11. CONSTRUCTION AND COMPLETION OF IMPROVEMENTS ON THE PROPERTY AND WARRANTIES PERTAINING THERETO: It is contemplated and intended that the Unit will be "substantially completed" on or before October 1, 1976, but completion is guaranteed not later than one (1) year from the date of this Agreement, and that the closing of the Unit will be as soon as practicable following substantial completion of the buildings and the closing may be delayed or extended due to acts of God, force majeure and/or other causes beyond Seller's control, and Seller will have no liability to Purchaser for any such delay or extension. "Substantial completion" shall be conclusively established by the issuance of a permanent or temporary Certificate of Occupancy by the controlling governmental authority for the Unit.

Purchaser shall have no right to possession of the Unit for any purposes until the closing, and Purchaser shall have no right to enter upon the Property at any time during construction. Purchaser shall be entitled to possession prior to closing upon execution and performance under the terms of an Occupancy Agreement. There will be no construction extras or credits unless the exact nature and charge or credit therefor are agreed upon in writing by the parties. Prior to closing of this transaction, it shall be the duty of the Purchaser to inspect his Unit in the presence of the Seller's agent and to present to the Seller at that time a written list of all defects in workmanship or material, which list shall be signed by the Purchaser. As to these items set forth in such list which are truly defects in workmanship and material, keeping in mind the standards of construction prevalent in Monroe County, Florida, the Seller shall be obligated to correct the same at its expense within a reasonable period of time, but the Seller's obligation to correct shall not be grounds to defer the closing nor for the imposition of any condition upon the Seller with regard to closing. As to any hidden or latent defects not discoverable at the time of initial inspection, the Seller shall be responsible to repair only such of the same as are in fact discovered within one (1) year after the first issuance of temporary or permanent certificate of occupancy as to the Unit, but only if such defect is reported in writing to the Seller within fifteen (15) days of the date of discovery. As to all appliances, including air conditioning units, the Purchaser shall look solely and exclusively to the warranties and/or guaranties as may be afforded by the manufacturer thereof and the Seller makes no warranties or guaranties, expressed or implied, of any nature or description whatever as to the same. THE SELLER MAKES NO WARRANTIES AS TO THE UNIT OR CONDOMINIUM PROPERTY WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF, NOR DOES IT MAKE ANY WARRANTIES OF MERCHANTABILITY, FITNESS, OR OTHER WARRANTIES ARISING FROM CUSTOM, USAGE, COURSE OF TRADE, IMPLIED BY LAW OR OTHERWISE. Purchaser will further execute and deliver a "Receipt, Acceptance and Waiver" of a form and content prepared by and acceptable to Seller, which, inter alia, acknowledges and recites Seller's compliance and fulfillment of all Seller's covenants, agreements, warranties and representations, implied or expressed herein.

At the time of closing, Seller will transfer to Purchaser all warranties and guarantees received by it on any appliances or equipment in the Unit and Seller will not have any further liability or responsibility for any defects in such appliances or equipment.

Seller will also transfer to the Condominium Association all guarantees and warranties against defects in workmanship or materials which have been received by Seller in connection with the construction of improvements on the Property. The foregoing transfers of warranties and guarantees shall be in lieu and in satisfaction of any and all expressed or implied warranties or guarantees of the Seller in connection with the improvements to be constructed on the Property, the Unit, and any equipment, appliances, systems or facilities located within the said improvements or Unit.

Seller expressly reserves the right, in its sole discretion, to make substitutions of materials, appliances, products or brand names, provided such substitutions are of substantially similar quality as those shown in the Plans and/or in the Display Model. The model apartments and furnishings therein are for display purposes only and do not constitute a representation of items included in the purchase price.

12. **DEFAULT BY PURCHASER:** In the event that the Purchaser fails to consummate this purchase and sale and execute all documents required of it and pay the balance of the purchase price as hereinabove provided, or otherwise defaults under the terms and conditions of this Agreement, the deposit paid hereunder into escrow shall be paid over to the Seller by the Escrow Agent and retained by the Seller as agreed upon liquidated damages, and the parties hereto shall thereupon be relieved of any and all further liability hereunder. In this connection, the Purchaser acknowledges that exact damages are incapable of being ascertained by virtue of the fact that the Seller has removed the Unit from being available for sale and has incurred costs in connection with entering into this Agreement. The Purchaser further acknowledges that the sum being retained by the Seller as liquidated damages is a fair and reasonable sum to compensate the Seller and is in no way or manner intended to be a penalty. The cancellation of this Agreement and the retention of all sums heretofore paid as liquidated and agreed upon damages shall be the Seller's sole remedy in the event of Purchaser's default. If this Agreement is so cancelled, Seller may sell the unit to any third party as though this Agreement had never been made (without any obligation to account to Purchaser for any part of the proceeds of such sale). Purchaser agrees not to file any action against Seller seeking a return of any portion of said deposit, or seeking any reduction in the amount of the liquidated and agreed upon damages if this Agreement is terminated for Purchaser's default.

13. **REMEDY OF PURCHASER:** The parties understand and agree that Seller's sole liability and obligation to Purchaser in the event of Seller's default or breach of any of the terms and provisions hereof shall be limited to the return of Purchaser's deposits made hereunder, with interest, or to Purchaser's actual damages hereunder, whichever sum shall be the lesser. No action for specific performance of this Contract shall lie in favor of either party hereto.

14. **MISCELLANEOUS:**

A) Limitation of Assignability by Purchaser: This Agreement is not assignable or transferable by the Purchaser without the prior written consent of the Seller.

B) Directors of Condominium Association: Purchaser acknowledges that he has been advised by the Seller that the Seller shall elect all of the members of the first Board of Directors of the Condominium Association, which said Directors may be the same parties as those who serve as Directors of the Seller's Corporation, and the election of such identical persons shall in no way or manner be prohibited or be considered an illegal act. Seller agrees that when Unit Owners other than the Seller own fifteen per cent (15%) or more of the Units that will be operated ultimately by the Association, the Unit Owners other than the Seller shall be entitled to elect not less than one-third (1/3) of the members of the Board of Directors of the Condominium Association. Unit Owners other than the Seller shall be entitled to elect not less than a majority of the members of the Board of Directors of the Condominium Association three (3) years after sales by the Seller have been closed on fifty (50%) percent of the Units that will be operated ultimately by the Association, or three (3) months after sale have been closed by the Seller on ninety percent (90%) of the Units that will be operated ultimately by the Association, or when all of the Units that will be operated ultimately by the Association have been completed and some of them have been sold and none of the others are being offered for sale by the Seller in the ordinary course of business, whichever shall first occur. Seller agrees that it shall be entitled to elect not less than one member of the Board of Directors of the Condominium Association as long as Seller holds for sale in the ordinary course of business any Units of the Condominium Association.

C) Seller's Rights Freely Assignable: Seller's rights hereunder shall be freely assignable and transferable by Seller to any person, corporation or entity, provided only that such person, corporation or entity shall assume the obligations of Seller hereunder and under similar and like contracts for other Units in the Condominium with other Purchasers. Upon the assumption by any assignee or transferee of the Seller, said Seller shall thereafter be relieved of all obligations hereunder, save only the obligation to transfer and deliver to such assignee or transferee any and all funds then on deposit with said Seller or having been deposited or paid by Purchaser hereunder against the purchase price of the Unit.

D) Suitability of Purchaser: It is understood by Purchaser that an investigation may be made by the Seller to determine if Purchaser, in the sole opinion and discretion of Seller, is a person of good character, generally desirable, and suitable for membership in the Association; and Seller shall have the right for a period of thirty (30) days from the date hereof to determine upon the suitability of the Purchaser for membership in the Condominium Association. If the Purchaser is not acceptable to the Seller, the Seller shall, upon notification of such fact to the Purchaser within thirty (30) days from the date hereof, simultaneously return to the Purchaser his deposit in full, and this Agreement shall thereafter be considered null and void and of no further force and effect. There shall be no liability upon Seller, or any of its agents or employees, either for approving or disapproving a Purchaser, or as to the method and manner of making such an investigation.

E) Seller Owned Units as Models-Displays: The Seller shall have and retain the right to use and show as Model Units any Units in the Property owned by Seller, and to display signs in reasonable appropriate places on the Property, and upon the door of such Unit, or appropriate common areas, so as to advise the public of the availability of these Units for sale and/or rental and of other matters pertaining thereto. Seller, its agents, servants, employees and lawful invitees may come upon the Condominium Property in a lawful manner for the purpose of showing and viewing

such Model Units and other wise conducting Seller's business of selling or renting such Units.

F) Form of Documents - No Third Party Beneficiaries:

This Agreement shall be construed to create rights between the parties hereto, their heirs, successors and assigns, in accordance with the terms hereof, and shall not be deemed to create any rights of any nature whatsoever in persons who in law would be described as "third party beneficiaries".

G) Attorneys Fees: Purchaser shall be liable for Seller's reasonable attorneys' fees and costs incurred by virtue of any litigation as to the parties' rights under this Agreement, if the Seller is the prevailing party.

H) Sales Literature and Models: It is acknowledged by the Purchaser that advertising material, brochures, maps, sketches, scale models decorations, furniture and furnishings in Unit Models, if any, constitute advertising materials and shall not be construed as warranties or representations of matters requiring performance by the Seller.

I) Entire Agreement: This Agreement is intended and acknowledged to represent the entire understanding of the parties hereto, and no agreements or representations, unless incorporated in this Agreement, shall be binding upon any party hereto.

J) Time of the Essence: It is hereby acknowledged by the parties hereto that time shall be of the essence in connection with this entire transaction.

K) Brokerage Fees: Purchaser warrants and represents that he has dealt with no real estate broker and/or salesman, other than Seller's agent, who will be paid by Seller, and agrees to indemnify and save harmless the Seller against all claims for brokerage commissions due to acts of the Purchaser or Purchaser's representatives, including but not limited to all reasonable attorney's fees and court costs incurred by Seller as a result of any act or actions of the Purchaser not disclosed herein.

L) Prior Use: Seller represents that the Unit has not been previously occupied.

M) Pronoun Interpretations: All pronouns and variations thereof shall be construed as to refer to the masculine, feminine, neuter, singular or plural form thereof, as the identity of the person or persons, as the situation may require.

N) Recording: This Agreement shall not be recorded.

O) Assessment and Maintenance: It is understood and agreed that the Purchaser will be required to pay assessments to the Condominium Association for utilities, administration fees, insurance, maintenance of common area and such other expenses for the operation, as the Condominium Association may reasonably require. It is presently estimated that such assessment will be \$_____ per month and will be payable to the Condominium Association upon the transfer of ownership of the Unit from the Seller to the Purchaser, which assessment Developer agrees to maintain for a period of two years (2) from the date of the first condominium closing. Purchaser agrees to be liable for and pay his proportionate share of the common expenses assessed by the

Condominium Association, in monthly installments in advance on the first day of each month of each year. Seller shall be liable for its proportionate share of the common expenses as set forth in the Condominium Documents. Seller has the right (without affecting Purchaser's obligation to purchase in accordance with the provisions hereof) to modify the estimated Operating Budget periodically if then current cost figures indicate that an up dating of estimates is appropriate.

P) Notices: Notices to either party shall be deemed properly given when mailed via registered or certified mail, return receipt requested, with sufficient postage affixed thereto to carry same to its destination, addressed respectively as follows:

TO SELLER: MOON BAY, INC.
a Florida corporation,
Route 3, Box 279
Key Largo, Florida

TO PURCHASER:

Q) Survival of Provisions: Except for the agreements and representations of Purchaser contained in Paragraph "14(K)" hereof (which will survive the closing), the parties agree that all of the agreements, warranties and representations contained herein shall not survive the closing but shall be merged therein.

R) Captions: The captions and title of the Articles and various paragraphs of this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement, nor in any way affect this Agreement.

S) Applicable Law: This Agreement shall be construed under the laws of the State of Florida.

15. THE PURCHASER HAS THE RIGHT AND OPTION TO CANCEL AND TERMINATE THIS AGREEMENT BY DELIVERING WRITTEN NOTICE OF THE PURCHASER'S INTENTION TO CANCEL WITHIN FIFTEEN (15) DAYS OF DATE OF EXECUTION OF THIS AGREEMENT BY THE PURCHASER, OR IF PURCHASER HAS NOT RECEIVED ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM BY THE SELLER UNDER FLORIDA STATUTES SECTION 711.70(1), THEN, AT ANY TIME PRIOR TO FIFTEEN (15) DAYS AFTER THE PURCHASER RECEIVES THE LAST OF THE ITEMS TO BE DELIVERED TO HIM BY THE SELLER UNDER SAID SECTION 711.70(1); WHICHEVER SHALL BE THE LATER DATE, THE PURCHASER'S RIGHT TO TERMINATE MUST BE EXERCISED, HOWEVER, PRIOR TO CLOSING, THE CONTRACT TIME FOR CLOSING MAY, AT THE OPTION OF THE PURCHASER, BE EXTENDED FOR A PERIOD OF NOT MORE THAN FIFTEEN (15) DAYS AFTER THE PURCHASER HAS RECEIVED THE LAST OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM BY THE SELLER UNDER SECTION 711.70(1).

IN WITNESS WHEREOF, the parties hereto have hereunto
affixed their respective hands and seals on the date and at
the place first hereinabove written.

WITNESSES:

MOON BAY, INC., a Florida corporation

By: _____

(SELLER)

AS TO SELLER

AS TO PURCHASER

(PURCHASER)

RECORDED IN OFFICIAL RECORD BOOK
MONROE COUNTY, FLORIDA
RALPH W. WHITE
CLERK OF CIRCUIT COURT
RECORD VERIFIED

SPECIAL WARRANTY DEED

THIS INDENTURE, made this ____ day of _____, 197__, by and between MASSMUTUAL MORTGAGE AND REALTY INVESTORS, a Massachusetts Business Trust, E. J. KULIK as Nominee of the Trustees thereof, a Trust existing under the laws of Massachusetts, and having its principal place of business at 1295 State Street, Springfield, Massachusetts 01111, hereinafter called "Grantor" and _____ whose address is _____ of the County of _____ and State of _____, hereinafter called "Grantee", _____ heirs, executors, administrators, personal representatives, successors and assigns, wherever the context so requires or admits:

W I T N E S S E T H:

That the said Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations to it in hand paid by the Grantee, the receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirms unto the Grantee the following described land, situate, lying and being in the County of Monroe, State of Florida and more particularly described as follows:

Condominium Unit No. _____ of MOON BAY, a CONDOMINIUM, according to the Declaration of Condominium thereof dated the 28th day of October, 1976, recorded in Official Records Book 678, at Page 395 of the Public Records of Monroe County, Florida, together with an individual interest in the Common Elements appurtenant thereto, all according to the Declaration of Condominium and Exhibits attached thereto.

This conveyance is subject to the following:

1. Taxes and assessments for the year 19__ and subsequent years.
2. Conditions, restrictions, limitations and easements of record.
3. Any adverse claim to any portion of said land which has been created by artificial means or has accreted to any such portion so created, and riparian rights, if any, and that portion

of the subject premises being artificially filled land in what what was formerly navigable waters, is subject to the terms, conditions and reservations contained in the Submerged Lands Act (43 U.S.C. 1301 et seq.) and the rights and easements for commerce, navigation and fisheries.

4. Declaration of Condominium of MOON BAY, a CONDOMINIUM, dated October 28, 1976, and recorded in Official Records Book 678 at Page 395, of the Public Records of Monroe County, Florida, including all Exhibits thereto.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

AND the Grantor hereby covenants with said Grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under the said Grantor.

IN WITNESS WHEREOF, THE Grantor has caused these presents to be executed by its duly authorized officers and the seal of said Trust to be affixed hereto, the day and year first above written.

WITNESSES:

MASSMUTUAL MORTGAGE AND REALTY
INVESTORS, a Massachusetts
Business Trust

By _____
E.J. KULIK, Nominee of the
Trustees

ATTEST: _____

THE FOREGOING IS EXECUTED ON BEHALF OF MASSMUTUAL MORTGAGE AND REALTY INVESTORS, ORGANIZED UNDER DECLARATION OF TRUST DATED JUNE 15, 1970. THE OBLIGATIONS THEREOF ARE NOT PERSONALLY BINDING UPON NOR SHALL RESORT BE HAD TO THE PRIVATE PROPERTY OF ANY OF THE TRUSTEES, SHAREHOLDERS, OFFICERS, EMPLOYEES, OR AGENTS OF THE TRUST, BUT THE TRUST PROPERTY OR A SPECIFIC PORTION THEREOF ONLY SHALL BE BOUND.

COMMONWEALTH OF MASSACHUSETTS)
) SS.
COUNTY OF HAMPDEN)

BEFORE ME, the undersigned authority, personally appeared _____ and _____ respectively, as the Nominee of the Trustees and _____ of MASSMUTUAL MORTGAGE AND REALTY INVESTORS, a Massachusetts Business Trust, and after first being duly sworn, they acknowledged that they were duly authorized to and did execute the foregoing document and did affix the official seal of said trust thereto; that the contents thereof are true and correct and that the execution thereof constitutes the free act and deed of said Trust.

WITNESS my hand and official seal in the County and Commonwealth last aforesaid this day of , 197 .

Notary Public

ACKNOWLEDGMENT AND ACCEPTANCE BY GRANTEE

Grantee, by acceptance and execution of this Deed, acknowledges that this conveyance is subject in every respect to the Declaration of Condominium recorded in Official Records Book _____, at Page _____, of the Public Records of Monroe County, Florida and all Exhibits attached thereto and incorporated by reference therein.

(SEAL)

(SEAL)

STATE OF FLORIDA)
) SS.
COUNTY OF)

BEFORE ME, the undersigned authority, personally appeared _____, known to me well known to be the individual(s) described in and who executed the foregoing Acknowledgment and Acceptance by Grantee; and upon oath by me duly administered, acknowledged before me that same was executed for the purpose therein set forth.

WITNESS my hand and official seal in the County and State last aforesaid this day of , 197 .

Notary Public

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

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE, MADE AND ENTERED into at Key Largo, Florida, this 1st day of July, 1978, by and between MASSMUTUAL MORTGAGE AND REALTY INVESTORS, a Massachusetts business trust, ("Seller") and -----, Ruben B. Lee, Jr. and Lois A. Lee, his wife, ("Purchaser"), whose mailing address is: -----, 630 N. W. 76th Terrace. Plantation, Florida 33324.

1. THE PROPERTY: Seller agrees to sell and convey to the Purchaser and Purchaser agrees to acquire from the Seller, a two bedroom apartment known as A-306 of MOON BAY, A CONDOMINIUM, ("Moon Bay"), together with an undivided interest in the Common Elements appurtenant thereto, as set forth in the Declaration of Condominium and the Exhibits attached thereto of MOON BAY CONDOMINIUM ASSOCIATION, INC., a non-profit Florida corporation, located at Route 3, Box 279, Key Largo, Florida, hereinafter referred to as the "Property", subject to the following terms, covenants and conditions.

2. PURCHASE AND PRICE AND TERMS OF PAYMENT: Purchaser agrees to pay unto Seller and Seller agrees to accept from the Purchaser as the purchase price for the Unit, to include assignment of parking space no. 42 and boat dock space -----, the sum of \$ 49,900.00, which said purchase price shall be payable as follows:

A) Amount previously deposited in the sum of: \$ 1,000.00

B) A deposit which has been paid simultaneously with the execution of this Agreement and delivered to Bradford. Williams. McFay, Kimbrell, Hamann & Jennings. P.A. in escrow, hereinafter referred to as the "Escrow Agent", in an interest bearing account, to be paid by the Escrow Agent as a portion of the purchase price at the closing or to be otherwise disbursed by the Escrow Agent as hereinafter provided in the sum of: \$ 4,000.00

C) The principal amount of the first mortgage to be secured by the Purchaser, which said sum will be delivered as set forth in Paragraph "9" herein the sum of: \$ 31,000.00

D) The balance of the purchase price subject to increase or decrease by virtue of prorations and closing costs, to be paid in cash at the time of closing, in the sum of: \$ 13,900.00

TOTAL PURCHASE PRICE \$ 49,900.00

3. CONVEYANCE AND TITLE: The Unit will be conveyed by the Seller to the Purchaser by Special Warranty Deed, subject only to: Taxes for the year in which the closing shall take place; conditions, restrictions, limitations and easements of record; any mortgage on the Unit executed by Purchaser; and all of the covenants, liens, restrictions, easements and limitations contained in the Condominium Documents and provided for by the Condominium Act, and as set forth in the Special Warranty Deed which is attached as an exhibit to the Condominium Documents.

4. ADJUSTMENTS AND CLOSING COSTS: Purchaser shall pay, in addition to the purchase price, the following costs at closing of title:

A) A contribution to the working capital of the Condominium Association in an amount equal to two (2) months apportionment of Common Expenses as estimated in the annual budget in effect at the time of closing.

B) Mortgage fees and costs to an institutional lender or to Seller if advanced on behalf of Purchaser should Seller not accept Mortgage offered by MASSMUTUAL.

C) Private Mortgage Insurance fee if applicable.

D) One and one-half percent (1½%) of the Purchase Price.

5. TITLE INSURANCE:

A) Seller shall make available to Purchaser an Owner's Title Insurance Policy and, if Purchaser is obtaining a Mortgage in connection with his purchase, a Mortgagee Title Insurance Policy through a title company doing business in Dade or Monroe Counties, Florida which policy shall be subject only to those matters specified in Paragraph "3" above, and standard printed exceptions customarily contained in Owner's Title Insurance Policies in the State of Florida. The availability of such policy shall be conclusive and binding on the parties that title is insurable. Purchaser acknowledges that he has been informed that he is not required to purchase the title insurance made available by Seller, Seller to pay the cost of same, but may provide his own title insurance in accordance with the following provision at his own cost.

B) If Purchaser elects to use his own title company, then within 60 days of the date of this Agreement, then for the purposes of this paragraph "5", Purchaser shall deliver the Title Commitments to the Seller within 15 days after the date of this Agreement.

6. DATE AND PLACE OF CLOSING: The closing of the purchase and sale of the Unit shall be on a date and at a time and place designated by Seller upon not less than fifteen (15) days prior written notice to Purchaser. Seller may, if it deems necessary, reasonably delay the closing date and shall incur no liability by so doing. In the event Purchaser, for any reason, fails to close on the date set for closing as set forth herein, and the Seller (in its sole discretion) elects to close with the Purchaser at a later date, all prorations shall be as of the original date set for closing, and in addition, Purchaser agrees to pay Seller interest at the rate of nine percent (9%) per annum on the full amount of the purchase price from the date originally set for closing to the actual date of closing, to compensate Seller for its carrying charges on the Unit; provided however, that nothing herein shall be considered as requiring

the Seller to close with the Purchaser in the event Purchaser shall fail to close on the closing date originally set by Seller. At the option of Seller, the closing proceeds and/or closing documents will be escrowed with a bank, title company, or institutional lender for a period of not more than (20) days after closing to permit Seller to obtain a Satisfaction of or a Partial Release from the existing mortgages.

At closing of title, Seller will deliver to Purchaser a recordable Special Warranty Deed, in a form substantially similar to that reflected as an Exhibit to the Declaration of Condominium and Purchaser shall pay to the Seller the balance of the purchase price, which shall be paid by way of cash or cashier's check drawn on a bank doing business in Dade or Monroe County, Florida, and Purchaser shall execute and deliver all instruments (to Seller's and Institutional Lender's satisfaction) for the closing of title, including the execution of the Receipt, Acceptance and Waiver Agreement, a letter of instruction to the Escrow Agent to release the escrow deposit, together with such other documents as may be reasonably required to consummate this purchase and sale.

7. CREATION OF CONDOMINIUM REGIME:

A) Purchaser understands and consents to the submission of the Unit to a Condominium form of ownership, and the Seller will (and is hereby authorized) to file with the Clerk of the Circuit Court of Monroe County, Florida, a Declaration of Condominium, together with all Exhibits necessary or desired in connection therewith, the said Declaration and Exhibits thereto being hereafter collectively referred to as the "Condominium Documents." It is acknowledged and agreed that Purchaser's Unit shall include a share of the Common Elements and all of the particulars of Purchaser's interest in and to the Unit are to be determined solely and only by reference to the Condominium Document. Seller retains the right to modify the Condominium Documents, if any modification is required by an Institutional Lender provided that any such changes or modifications shall not in any way or manner detract from the rights of the Purchaser, and provided further that the Purchaser shall be given a copy of any such modification in accordance with applicable Florida Statutes.

B) Seller reserves the right to make such modifications, additions or deletions in or to the property as may be approved or reasonably required by and Lending Institution designated by the Seller to make construction loans, and/or permanent mortgages to the Seller, or any Lending Institution making mortgage loans on the Units in the Condominium to the Seller and/or Purchaser or by any appropriate governmental authority, desired by Seller (in Seller's discretion), provided that none of the same shall; (i) Increase the purchase price of the Unit being sold hereunder; (ii) Require a material adverse physical modification of the Unit being sold hereunder; (iii) Decrease the financial obligation of the Seller as a Unit Owner.

C) If, at any time prior to the closing on the purchase and sale of the first Unit of the Property, Seller, in its sole discretion elects not to submit the Property to condominium ownership, then and in such event, the Escrow Agent will return to the Purchaser the deposit this day made, and this Agreement shall forth with be cancelled, terminated, and of no further force or effect, and the Purchaser and Seller will be released of all further liability hereunder.

8. CONDOMINIUM DOCUMENTS: Simultaneously with the execution of this Agreement, Seller has delivered to Purchaser, and Purchaser does hereby acknowledge receipt of copies of the Condominium Documents, including the Declaration of Condominium, Survey, Percentages of Interest in the Common Elements, Articles of Incorporation and By-Laws of the Condominium Association, Rules

and Regulations of the Condominium, Projected Operating Budget, Special Warranty Deed, Sales Brochure, and a Floor Plan of the Unit, as well as a Prospectus, all of which are required by applicable Florida Statutes, and all of which are hereby approved and accepted by Purchaser.

The Condominium Documents will grant Seller certain rights pertaining to unsold or acquired Units in the Property including but not limited to the right to sell, rent and/or mortgage same without the approval of the Condominium Association. Purchaser is referred to the Condominium Documents for a full statement of Seller's rights in this regard.

9. MORTGAGE FINANCING: If a portion of the purchase price is to be paid by a mortgage on the Unit, as provided in Paragraph "2(C)" hereof, then and in such event, as soon as practicable, Purchaser agrees to forthwith file the necessary application and execute all documents required by an Institutional Lender designated or approved and to supply the said Lender with all information and further documentation required. "Institutional Lender" shall mean a federal or state bank, a saving and loan association, insurance company, pension fund, real estate investment trust, or any other institution commonly or customarily classified as an "Institutional Lender." The interest rate, term and closing costs for such mortgage shall be the then prevailing rate being charged by the Institutional Lender and the mortgage shall be upon such forms, terms and conditions as are customarily required by the Institutional Lender. Purchaser shall pay all mortgage fees, closing costs and other costs required by the Institutional Lender, including but not limited to abstracting, documentary stamps on mortgage note, intangible tax on mortgage, recording mortgage, escrow for taxes and insurance, prepaid interest, credit report, mortgagee title insurance and the Lender's attorney's fees.

If Purchaser is unable to obtain a Commitment for the mortgage provided for herein within thirty (30) days from the date hereof, Purchaser agrees to give Seller notice of that fact, and the Seller shall have the option, in its sole discretion, to either:

A) Cancel and terminate this Agreement, in which event the deposit will be returned by the escrow agent to Purchaser and the parties will be released and discharged of and from all further duties or obligations hereunder; or

B) Seller shall have the option to accept on its own behalf a Mortgage from Purchaser, (or to arrange for the placing of such a Mortgage), provided that said Mortgage will bear interest at the rate of eight and three quarters percent per annum (8 3/4%), with ninety (90%) percent financing and eight and one half (8 1/2%) percent per annum with eighty (80%) percent financing, payable in equal monthly installments over thirty (30) years. Purchaser shall pay one quarter (1/4%) percent per annum payable monthly and Seller shall pay three quarters (3/4%) percent prepayment for Private Mortgage Insurance if required. Seller is to pay all other closing costs and fees associated with said mortgage. The Mortgage will contain such terms as are customary by Savings and Loan Associations doing business in Dade and Monroe Counties, Florida.

In the event Purchaser does not give Seller written notice of its inability to obtain the mortgage provided for herein within thirty (30) days from the date hereof, it will be conclusively presumed that Purchaser has either obtained the said mortgage or has elected not to obtain a mortgage, and the provisions of this paragraph will be cancelled and of no further force and effect. Seller shall have the right, at its option and in its sole discretion, to extend and enlarge the said thirty (30) day period provided that no such extension or enlargement shall be of any force or effect unless the same is in writing and signed by the Seller.

10. WARRANTIES; Prior to closing of this transaction, it shall be the duty of the Purchaser to inspect his Unit in the presence of the Seller's agent and to present to the Seller at that time a written list of all defects in workmanship or material, which list shall be signed by the Purchaser. After these items set forth in such list which are truly defects in workmanship and material, keeping in mind the Standards of Construction prevalent in Monroe County, Florida, the Seller shall be obligated to correct the same at its expense within a reasonable period of time, but the Seller's obligation to correct shall not be grounds to defer the closing nor for the imposition of any condition upon the Seller with regard to closing. As to any hidden or latent defects not discoverable at the time of initial inspection, the Seller shall be deemed to have granted to the Purchaser of each Unit an implied warranty of fitness and merchantability for the purposes or uses intended as follows:

A) As to each Unit, a warranty for three (3) years commencing with the completion of the building containing the Unit.

B) As to the personal property that is transferred with, or appurtenant to, each Unit, a warranty which is for the same period as that provided by the manufacturer of the personal property, commencing with the date of closing of the purchase or the date of possession of the Unit, whichever is earlier.

C) As to all other improvements for the use of Unit owners a three (3) year warranty commencing with the date of completion of the improvements.

D) As to all other personal property for the use of Unit owners, a warranty which shall be the same as that provided by the manufacturer of the personal property.

E) As to the roof and structural components of a building or other improvements and as to mechanical, electrical, and plumbing elements serving improvement or a building, except mechanical elements serving only one (1) Unit, a warranty for a period beginning with the completion of construction of each building or improvement and continuing for three (3) years thereafter or one (1) year after the owners other than the Seller obtain control of the Association, whichever occurs last, but in no event more than five (5) years.

F) As to all other property which is conveyed with a Unit, a warranty to the initial purchaser of each Unit for a period of one (1) year from the date of closing of the purchase or the date of possession, whichever occurs first.

"Completion of a building or improvement" means issuance of a Certificate of Occupancy for the entire building or improvement, or the equivalent authorization issued by Governmental body having jurisdiction, and in jurisdictions where no Certificate of Occupancy or equivalent authorization is issued, it means substantial completion of construction, finishing and equipping of the building or improvement according to the plans and specifications. These warranties are conditioned upon routine maintenance being performed.

The Seller makes no warranties as to the Unit or Condominium property which extend beyond the description on the fact hereof, nor does it make any warranties or merchantability, fitness, or other warranties arising from custom, usage, course of trade, implied by law or otherwise. Purchaser will further execute and deliver a "Receipt, Acceptance, and Waiver" of a form and content prepared by and acceptable to Seller, which inter alia, acknowledges and recites Seller's compliance and fulfillment of all Seller's covenants, agreements, warranties and representations, implied or expressed herein.

At the time of closing, Seller will transfer to Purchaser all warranties and guarantees received by it on any appliances or equipment in the Unit and Seller will not have any further liability or responsibility for any defects in such appliances or equipment. Seller will also transfer to the Condominium Association all guarantees and warranties against defects in workmanship or materials which have been received by Seller in connection with the construction of improvements on the property. The foregoing transfers of warranties and guarantees shall be in lieu and in satisfaction of any and all expressed or implied warranties or guarantees of the Seller in connection with the improvements to be constructed on the Property, the Unit, and any equipment, appliances, systems or facilities located within the said improvements or Unit.

Seller expressly reserves the right, in its sole discretion, to make substitutions of materials, appliances, products or brand names, provided such substitutions are of substantially similar quality as those shown in the Plans and/or in the Display Model. The Model apartments and furnishings therein are for display purposes only and do not constitute a representation of items included in the purchase price.

12. **DEFAULT BY PURCHASER:** In the event that the Purchaser fails to consummate this purchase and sale and execute all documents required of it and pay the balance of the purchase price as hereinabove provided, or otherwise defaults under the terms and conditions of this Agreement, the deposit paid hereunder into escrow shall be paid over to the Seller by the Escrow Agent and retained by the Seller as agreed upon liquidated damages, and the parties hereto shall thereupon be relieved of any and all further liability hereunder. In this connection, the Purchaser acknowledges that exact damages are incapable of being ascertained by virtue of the fact that the Seller has removed the Unit from being available for sale and has incurred costs in connection with entering into this Agreement. The Purchaser further acknowledges that the sum being retained by the Seller as liquidated damages is a fair and reasonable sum to compensate the Seller and is in no way or manner intended to be a penalty. The cancellation of this Agreement and the retention of all sums heretofore paid as liquidated and agreed upon damages shall be the Seller's sole remedy in the event of Purchaser's default. If this Agreement is so cancelled, Seller may sell the unit to any third party as though this Agreement had never been made (without any obligation to account to Purchaser for any part of the proceeds of such sale). Purchaser agrees not to file any action against Seller seeking a return of any portion of said deposit, or seeking any reduction in the amount of the liquidated and agreed upon damages if this Agreement is terminated for Purchaser's default.

13. **REMEDY OF PURCHASER:** The parties understand and agree that Seller's sole liability and obligation to Purchaser in the event of Seller's default or breach of any of the terms and provisions hereof shall be limited to the return of Purchaser's deposits made hereunder, with interest, or to Purchaser's actual damages hereunder, whichever sum shall be the lesser. No action for specific performance of this Contract shall lie in favor of either party hereto.

14. **MISCELLANEOUS:**

A) Limitation of Assignability by Purchaser: This Agreement is not assignable or transferable by the Purchaser without the prior written consent of the Seller.

B) Directors of Condominium Association: Purchaser acknowledges that he has been advised by the Seller that the Seller shall elect all of the members of the first Board of Directors of the Condominium Association, which said Directors may be the same parties as those who serve as Directors of the Seller's Corporation, and the election of such identical persons shall in no way

or manner be prohibited or be considered an illegal act. Seller agrees that when Unit Owners other than the Seller own fifteen percent (15%) or more of the Units that will be operated ultimately by the Association, the Unit Owners other than the Seller shall be entitled to elect not less than one third (1/3) of the members of the Board of Directors of the Condominium Association. Unit Owners other than the Seller shall be entitled to elect not less than a majority of the members of the Board of Directors of the Condominium Association three (3) years after sales by the Seller have been closed on fifty (50%) percent of the Units that will be operated ultimately by the Association, or three (3) months after sale has been closed by the Seller on ninety percent (90%) of the Units that will be operated ultimately by the Association, or when all of the Units that will be operated ultimately by the Association have been completed and some of them have been sold and one of the others are being offered for sale by the Seller in the ordinary course of business, whichever shall first occur. Seller agrees that it shall be entitled to elect not less than one member of the Board of Directors of the Condominium Association as long as Seller holds for sale in the ordinary course of business any Units of the Condominium Association.

C) Seller's Rights Freely Assignable: Seller's rights hereunder shall be freely assignable and transferable by Seller to any person, corporation or entity, provided only that such person, corporation or entity shall assume the obligations of Seller hereunder and under similar and like contracts for other Units in the Condominium with other Purchasers. Upon the assumption by any assignee or transferee of the Seller, said Seller shall thereafter be relieved of all obligations hereunder, save only the obligation to transfer and deliver to such assignee or transferee any and all funds then on deposit with said Seller or having been deposited or

D) Suitability of Purchaser: It is understood by Purchaser that an investigation may be made by the Seller to determine if Purchaser, in the sole opinion and discretion of Seller, is a person of good character, generally desirable, and suitable for membership in the Association; and Seller shall have the right for a period of thirty (30) days from the date hereof to determine upon the suitability of the Purchaser for membership in the Condominium Association. If the Purchaser is not acceptable to the Seller, the Seller shall, upon notification of such fact to the Purchaser within thirty (30) days from the date hereof, simultaneously return to the Purchaser his deposit in full, and this Agreement shall thereafter be considered null and void and of no further force and effect. There shall be no liability upon Seller, or any of its agents or employees, either for approving or disapproving a Purchaser, or as to the method and manner of making such an investigation.

E) Seller Owned Units as Models-Displays: The Seller shall have and retain the right to use and show as Model Units any Units in the Property owned by Seller, and to display signs in reasonable appropriate places on the Property, and upon the door of such Unit, or appropriate common areas, so as to advise the public of the availability of these Units for sale and/or rental and of other matters pertaining thereto. Seller, its agents, servants, employees and lawful invitees may come upon the Condominium Property in a lawful manner for the purpose of showing and viewing such Model Units and otherwise conducting Seller's business of selling or renting such Units.

F) Form of Documents - No Third-Party Beneficiaries: This Agreement shall be construed to create rights between the parties hereto, their heirs, successors and assigns, in accordance with the terms hereof, and shall not be deemed to create any rights of any nature whatsoever in persons who in law would be described as "third-party beneficiaries."

G) Attorneys' Fees: Reasonable attorneys' fees and costs incurred by virtue of any litigation as to the parties' rights under this Agreement shall be paid by the non-prevailing party.

H) Sales Literature and Models: It is acknowledged by the Purchaser that advertising material, brochures, maps, sketches, scale models, decorations, furniture and furnishings in Unit Models, if any, constitute advertising materials and shall not be construed as warranties or representations of matters requiring performance by the Seller.

I) Entire Agreement: This Agreement is intended and acknowledged to represent the entire understanding of the parties hereto, and no agreements or representations, unless incorporated in this Agreement, shall be binding upon any party hereto.

J) Time of the Essence: It is hereby acknowledged by the parties hereto that time shall be of the essence in connection with this entire transaction.

K) Brokerage Fees: Purchaser warrants and represents that he has dealt with no real estate broker and/or salesman, other than Seller's agent, who will be paid by Seller, and agrees to indemnify and save harmless the Seller against all claims for brokerage commissions due to acts of the Purchaser or Purchaser's representatives, including but not limited to all reasonable attorney's fees and court costs incurred by Seller as a result of any act or actions of the Purchaser not disclosed herein.

L) Prior Use: Seller represents that the Unit has not been previously occupied unless noted herein.

M) Pronoun Interpretations: All pronouns and variations thereof shall be construed as to refer to the masculine, feminine, neuter, singular or plural form thereof, as the identity of the person or persons, as the situation may require.

N) Recording: This Agreement shall not be recorded.

O) Assessment and Maintenance: It is understood and agreed that the Purchaser will be required to pay assessments to the Condominium Association for utilities, administration fees, insurance, maintenance of common area and such other expenses for the operation, as the Condominium Association may reasonably require. It is presently estimated that such assessment will be \$ 64.49 per month (\$64.49 attributable to Condominium Unit and \$----- to dock space) and will be payable to the Condominium Association upon the transfer of ownership of the Unit from the seller to the Purchaser.

P) Notices: Notices to either party shall be deemed properly given when mailed via registered or certified mail, return receipt requested, with sufficient postage affixed thereto to carry same to its destination, addressed respectively as follows:

TO SELLER:

MASSMUTUAL MORTGAGE AND
REALTY INVESTORS
c/o Bailey & Casey, Inc.
First Federal Building
Suite 1220
Miami, Florida.

TO PURCHASER:

Mr. and Mrs. Ruben E. Lee Jr.
630 N. W. 76th Terrace
Plantation, Florida 33324

Q) Survival of Provisions: Except for the agreements and representations of Purchaser contained in Paragraph "14 (K)" hereof (which will survive the closing), the parties agree that all of the agreements, warranties and representations contained herein shall not survive the closing but shall be merged therein.

R) Captions: The captions and title of the Articles and various paragraphs of this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement, nor in any way affect this Agreement.

S) Applicable Law: This Agreement shall be construed under the laws of the State of Florida.

15. THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN FIFTEEN (15) DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM BY THE DEVELOPER UNDER SECTION 718.503, FLORIDA STATUTES. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN FIFTEEN (15) DAYS AFTER THE BUYER HAS RECEIVED ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

DISCLOSURE DOCUMENTS
OF
MOON BAY,
A CONDOMINIUM
INCLUDING PROSPECTUS AND EXHIBITS THERETO
PRESENTED BY:
MASSMUTUAL MORTGAGE AND REALTY INVESTORS,
a Massachusetts Business Trust

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

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

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

IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT ARE SET FORTH COMMENCING ON PAGE TWO OF THIS DOCUMENT.

EXHIBIT "A"

AMENDMENTS
TO
THE DECLARATION OF CONDOMINIUM,
ARTICLES OF INCORPORATION,
AND BY-LAWS
OF
MOON BAY CONDOMINIUM ASSOCIATION, INC.

(Additions shown by underlining; deletions by "---")

1. Amendment to Article XII (f), entitled "Commercial Usage", of the Declaration of Condominium of Moon Bay Condominium to read as follows:

(f) COMMERCIAL USAGE. No condominium unit, or boat slip, whether owned or leased, may be used to conduct any trade or business, the conduct of which would require the license of certification from any Municipal, County, State or Federal agency or licensing authority. Notwithstanding any other provision in this Article XII, the rental or leasing of a condominium unit by an owner shall not be deemed a commercial usage.

2. Amendment to the sixth (6th) paragraph of Article IX of the Articles of Incorporation of Moon Bay Condominium Association, Inc. to read as follows:

Directors may be removed from office by a vote of a majority of the voting interests of the corporation, ~~except that the members of the initial Board of Directors may not be so removed.~~ A majority of the Board of Directors present at a regular or special meeting of the Board of Directors duly called may remove a director who misses three (3) meetings or twenty-five percent (25%) of the scheduled meetings, whichever is less, during any calendar year.

3. Amendment to Article III(A) of the By-Laws of Moon Bay Condominium Association, Inc. to read as follows:

The affairs of the corporation shall be managed by a Board of Directors, composed of ~~not less than three (3) nor more than fifteen (15) persons~~ five (5) persons.

4. Amendment to Article XII of the By-Laws of Moon Bay Condominium Association, Inc. to read as follows:

The Board of Directors may, from time to time, adopt rules and regulations governing the details of the operation and use of the common elements, and such other rules and restrictions as are designed to prevent unreasonable interference with the use of the units, limited common elements, and common elements, by the members and all members shall abide thereby, provided that said rules and regulations shall be equally applicable to all members, and uniform in their application in effect.

Those restrictions in the Declaration of Condominium which in any way limit the use of the individual units or the common elements are declared to be house rules and regulations.

The Association may levy fines in the maximum amount allowed by law as provided for in Chapter 718, Florida Statutes, as amended from time to time, against a unit for the failure of the owner of the unit, or its occupant, licensee, or invitee, to comply with any provision of the Declaration, the Association's By-Laws, or reasonable rules of the Association. Fines may be levied after giving reasonable notice and opportunity for a hearing to the unit owner and, if applicable, its licensee or invitee.



MIAMI OFFICE:

9100 South Dadeland Blvd.
Suite 400
Miami, FL 33156

Tel: (305) 273-4200
Fax: (305) 847-0581

OCEAN REEF OFFICE:

31 Ocean Reef Drive
Suite A-201
Key Largo, FL 33037

Tel: (305) 367-3300
Fax: (305) 723-0240

September 11, 2013

Via Email Only ken@keys-condos.com

Ken Larrivee, Property Manager
Moon Bay Condominium Association, Inc.
P.O. Box 370219
Key Largo, Florida 33037

**RE: Moon Bay Condominium
Recorded Amendment to Declaration of Condominium**

Dear Ken:

Enclosed herewith please find the Certificate of Amendment to the Declaration of Condominium recorded in the public records on Monroe County, Florida. Please maintain a copy of the Certificate of Amendment for the Association's records.

If you should have any questions, please feel free to contact me.

Very truly yours,

PERSAUD LAW GROUP, INC.



Samuel A. Persaud, Esq.

SAP\ls
Enclosure

INSTRUMENT PREPARED BY:
SAMUEL A. PERSAUD, ESQ.
PERSAUD LAW GROUP
9100 S. DADELAND BLVD - SUITE 400
MIAMI, FL 33176
TELEPHONE NO. (305) 273-4200

Doc# 1946202
Bk# 2845 Pg# 504

**CERTIFICATE OF AMENDMENT
TO
THE DECLARATION OF CONDOMINIUM
MOON BAY CONDOMINIUM**

WHEREAS, the Declaration of Condominium of Moon Bay Condominium was duly recorded in Official Records Book 678 at Page 395 of the Public Records of Monroe County, Florida; and

WHEREAS, the Articles of Incorporation, By-Laws and Rules and Regulations of Moon Bay Condominium Association, Inc. (the "Association") were attached as Exhibits to the aforementioned Declaration of Condominium; and

WHEREAS, at a duly called and convened meeting of the membership of the Association held on May 4, 2013, the amendments to the Declaration of Condominium as set out in Exhibit "A" attached hereto and incorporated herein were duly approved by a vote of the membership in excess of that required by the pertinent provisions of said condominium documents.

NOW, THEREFORE, the undersigned hereby certifies that the amendments to the Declaration of Condominium as set out in Exhibit "A" attached hereto and incorporated herein are a true copy of the amendments as approved by the requisite percentage of the membership of the Association.

WITNESS my signature hereto this 20th day of July, 2013 at Monroe County, Florida.

MOON BAY CONDOMINIUM
ASSOCIATION, INC.

BY:


Mark Vigarino, President

ATTEST:


Carl Buonomo, Secretary


Witness


Witness


Witness


Witness

STATE OF FLORIDA

COUNTY OF

The foregoing instrument was acknowledged before me this 20th day of July, 2013 by Mark Vigarino, the President of MOON BAY CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation, on behalf of the corporation. Who is personally known to me or who has produced (personally known) as identification and who did take an oath.



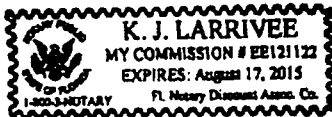

NOTARY PUBLIC SIGNATURE
STATE OF FLORIDA AT LARGE

KJ Larrivee
PLEASE PRINT OR TYPE NOTARY SIGNATURE

STATE OF FLORIDA

COUNTY OF

The foregoing instrument was acknowledged before me this 20th day of July, 2013 by Carl Buonomo, the Secretary of MOON BAY CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation, on behalf of the corporation. Who are personally known to me or who have produced (personally known) as identification and who did take an oath.




NOTARY PUBLIC SIGNATURE

KJ. Larrivee
PLEASE PRINT OR TYPE NOTARY SIGNATURE

Exhibit "A"

AMENDMENT TO DECLARATION

Additions are indicated by underline. Deletions are indicated by strikeouts.

A. Article VII, entitled "Assessments", of the Declaration of Condominium of Moon Bay Condominium is amended to read as follows:

ASSESSMENTS:

Assessments against the Unit Owners including Owners of Boat Slips, shall be made by the Association and shall be governed by the following provisions:

(A) SHARE OF EXPENSE, COMMON EXPENSE. The expense of operation and maintenance of the Common Elements shall be a Common Expense and shall be borne by the Condominium Unit Owners in accordance with the percentage of ownership attributable to each Unit as set forth in EXHIBIT "2" attached hereto. No Unit Owner shall have the right to withdraw or receive distribution of his share of the Common Surplus.

(B) LIABILITY OF UNIT OWNER. Each Unit Owner shall be liable for that share of the said Common Expense as specified in Paragraph (A) of this ARTICLE VII. Assessments and monthly installment payments thereof shall commence immediately upon the sale and conveyance of the Unit by the Developer to a Grantee other than a Developer's nominee, substitute or alternate Developer.

(C) LIABILITY OF DEVELOPER. The liability of the Developer with respect to its share of the Common Expenses for its unsold Apartment Units shall be as set forth in ARTICLE V, Paragraph (C).

(D) ASSESSMENT ROLL. The assessments for Common Expenses shall be set forth upon a roll of the Units which shall be available in the office of the Association for inspection by Unit Owners at all reasonable times. Such roll shall indicate for each Unit the name and address of the owner or owners, the assessments for all purposes, and the amounts paid and unpaid for all assessments.

(E) ASSESSMENTS FOR RECURRING EXPENSES. Assessments for recurring expenses for each account shall include the estimated expenses chargeable to each Unit Owner's account and a reasonable allowance for contingencies, deferred maintenance and reserves, less the unused fund balance credited to such account. Assessments shall be made for the calendar year annually in advance on December 1st preceding the year for which assessments are made. Such assessments shall be due in twelve (12) equal consecutive monthly payments, payable on the first day of each month of the year for which the assessment is made, provided however, that upon default in the making of any such installment payment, the entire assessment for the current calendar year, including any special assessments, shall forthwith be due and payable, without notice.

(F) SPECIAL ASSESSMENTS. Special assessments shall include all other assessments as may be made by the Board of Directors from time to time to meet other needs or requirements of the Association in the operation and management of the Condominium,

including but not limited to such items as capital expenditures and replacements. Any such special assessment in an amount exceeding \$1,000.00 per year per Unit which is not a recurring expense, shall not be levied without the prior approval of Owners owning at least Seventy-five Per Cent (75%) of the Condominium Units, provided, however, that any assessment levied under the provisions of ARTICLE X, for the purpose of reconstruction or repair by the Association of any damage to a Unit or to the Common Elements shall not require such consent; further, provided, however, that said assessment or assessments be made only if said damage is to be repaired or reconstructed, as provided in the Declaration of Condominium. Special assessments will be assessed against and borne by the Owners of the Units in the same manner as assessments for other Common Elements except that such special assessments shall be due and payable not later than thirty (30) days after notice thereof, or as otherwise determined by the Board of Directors of the Association.

(G) ASSESSMENT FOR LIENS. All liens of any nature, including but not limited to taxes and special Assessments levied by any governmental authority, which are a lien upon more than one Unit or on any portion of the Common Elements shall be paid by the Association as a Common Expense and shall be assessed against the Units in the same manner as are all other Common Expenses. Approval of the Condominium Association shall not be required for emergency assessments.

(H) ASSESSMENTS FOR EMERGENCIES. Assessments for emergencies of Common Expenses requiring immediate repair which cannot be paid from the assessment for recurring expenses, shall only be made after approval of the Board of Directors of the Condominium Association. After such approval by the Board of Directors, such emergency assessment shall become effective, and it shall be due thirty (30) days after notice thereof in such manner as the Board of Directors may require. Assessments for emergencies will otherwise be assessed against and borne by the Owners of the Units in the same manner as other Common Expenses. Approval of the Condominium Association shall not be required for emergency assessments.

(I) LIABILITY FOR PAYMENT IN THE EVENT OF FORECLOSURE RIGHTS OF INSTITUTIONAL FIRST MORTGAGEES. In the event of foreclosure by an Institutional First Mortgagee of an Institutional First Mortgage encumbering a Unit, the Purchaser of such Unit at such sale, his successors or assigns, shall not be liable for the unpaid portion of assessments attributable to such Unit for the period prior to and ending with the date of the foreclosure sale, but such unpaid portion of the assessments shall be deemed to be a Common Expense, assessable against and collectible from the Unit Owners, excluding the purchaser, his successors or assigns. The foregoing provision shall also be applicable to the conveyance of a Unit to a First Mortgagee in lieu of foreclosure. The foregoing exemption for payment of assessments is in addition to and in no way restrictive of the additional exemptions granted herein to mortgagees under the provisions of ARTICLE X hereof. Notwithstanding any other provisions in this Declaration, the By-Laws or Articles of Incorporation, when any Institutional First Mortgagee obtains title to a Unit as a result of a foreclosure of Mortgage, or a deed (or assignment) given in lieu of foreclosure, such First Mortgagee acquiring title, shall be liable for the Unit's unpaid Common Expenses and regular periodic or Special Assessments that accrued or came due prior to the Mortgagee's receipt of the deed. However, such liability is limited to the lessor of: (i) those Assessments which accrued or came due during the twelve (12) months immediately preceding the

acquisition of title and for which payment in full has not been received by the Association; or (ii) one (1%) percent of the original Mortgage debt, or the maximum amount permitted by Chapter 718, Florida Statutes, as amended from time to time, plus any outstanding special assessments, interest at the maximum rate permitted by law and any attorney's fees and costs incurred by the Association. For purposes of this Section, an "Institutional First Mortgage" shall mean and is limited to an Institutional First Mortgage duly recorded upon a Unit prior to the Association's lien and duly recorded in the public records of Monroe County prior to any other mortgages, liens or encumbrances.

(J) **LIABILITY FOR ASSESSMENTS.** The owner of a Unit and his grantees shall be jointly and severally liable for all unpaid assessments due and payable at the time of a conveyance but without prejudice to the rights of a grantee to recover from the grantor the amounts paid by the grantee therefor. Such liability may not be avoided by a waiver of either the grantor or grantee of the use or enjoyment of any Common Element or by abandonment of the Unit with respect to which the assessment is made. Except as provided in subparagraph (I) hereof, a purchaser of a Unit at a judicial sale, or a mortgagee acquiring title thereto by deed in lieu of foreclosure shall be liable for all assessments, interest, costs and attorneys fees unpaid and due and payable when title is acquired and becoming due anytime thereafter.

1. Notwithstanding any other provisions of this Declaration, the By-Laws or Articles of Incorporation, all Assessments authorized in this Declaration, together with interest at the maximum rate allowed by law as computed from the date the delinquency first occurs, late charges, costs of collection, attorney's fees and court costs, shall be a charge on the land, and shall be a continuing lien upon the Unit against which each Assessment is made. Each such Assessment, together with interest, late charges, costs of collection, attorney's fees and court costs, shall also be the personal obligation of the Person who was the Owner of such Unit at the time the Assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance (except as set forth in Section "I" hereof). A Unit Owner, excluding the Association, regardless of how his or her title has been acquired, including a purchaser at a judicial sale or by deed in lieu of foreclosure, is jointly and severally liable with the previous Unit Owner, excluding the Association if applicable, for all unpaid assessments, special assessments, costs, fees and interest that came due up to the time of transfer of title.
2. In the event any assessment is not paid within Fifteen (15) days of the date it is due, the Association may charge a late charge of \$25.00 or 5% of the Assessment due, whichever is greater.
3. If a Unit Owner is delinquent for more than ninety (90) days in paying a monetary obligation due to the Association, the Association may suspend the Unit Owners and/or their guests or tenants ability to use the Association's amenities until the monetary obligation are paid in full.

(M) **UNPAID ASSESSMENTS.** In the event that either any assessment or any installment thereof levied against any Unit Owner shall remain unpaid for ninety (90) days or more, then so long as such delinquent assessments and/or installments are not received by the Association, such unpaid assessments and/or installments shall be deemed to be a common expense and treated in a manner consistent with the provisions for the assessment and collection of common expenses.

(N) **CONTINUING OBLIGATION.** Nothing contained herein shall be deemed to discharge a Unit Owner from his obligation to pay any assessment owed to the Association.

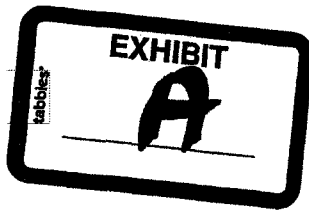
(O) **LIMITATION OF LIABILITY.** The liability of a Unit Owner for Common Expenses shall be limited to amounts for which he is assessed from time to time in accordance with the Condominium Act, this Declaration of Condominium and the By-Laws.

(P) In the event that the Association adds additional boat slips and leases same for consideration, the Association, through its Board of Directors, may determine in its sole discretion to utilize the lease income first for improvements and maintenance expenses of the Marina Area and any remaining lease income shall be considered common surplus of the Association. Should the Board of Directors determine to use said lease funds for improvements and maintenance of the Marina Area, it may approve and effect said improvements and maintenance regardless of the cost and despite expenditure limitations contained elsewhere in these documents, provided that only funds generated from boat slip leases are utilized.

(Q). **Association exemption.** Notwithstanding any other provisions in this Declaration, the By-Laws or Articles of Incorporation, in the event the Association shall ever acquire title to a Unit through its lien foreclosure or otherwise, the Association shall not be required to pay assessments, dues, fees, costs or any other charges which are due, past due or may become due upon such Unit and, in such event, the prior Unit Owner of record shall remain responsible and obligated to pay for all assessments, dues, fees, costs and charges that are due and become due upon such foreclosed Unit until such time as the title to such foreclosed Unit is transferred or conveyed to a new Unit Owner. Additionally, the new Unit Owner shall be jointly and severally liable with the prior Unit Owner, excluding the Association if applicable, for all amounts due upon any such Association foreclosed Unit.

® **Adoption of Amendments to Chapter 718, Florida Statutes.** Notwithstanding any other provisions in this Declaration, the Association's Board of Directors may, from time to time, adopt amendments to Chapter 718, Florida Statutes, or the Board of Directors may, from time to time, adopt specific provisions of Chapter 718, Florida Statutes.

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DECLARATION OF CONDOMINIUM
OF
MOON BAY CONDOMINIUM

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ARTICLE I

SUBMISSION STATEMENT:

MOON BAY, INC., a Florida corporation, (hereinafter sometimes referred to as the "Developer"), hereby states and declares that it is the owner of the fee simple title to the real property described as EXHIBIT "1" attached hereto and made a part hereof and hereby declares said real property to be Condominium Property and does hereby submit the same to Condominium Ownership pursuant to Chapter 711, Florida Statutes, the Condominium Act, as amended (hereinafter referred to as "the Condominium Act"), upon and subject to the terms, conditions restrictions, reservations and limitations hereinafter set forth.

ARTICLE II

NAME:

The name by which this Condominium is to be known and identified is MOON BAY, A CONDOMINIUM.

ARTICLE III

DEFINITIONS:

As used in the Declaration of Condominium and Exhibits attached hereto, and all Amendments thereof, unless the context otherwise requires, the following definitions shall prevail:

(A) Declaration, or Declaration of Condominium, or Enabling Declaration, means this instrument as it may be from time to time amended.

(B) "Association" or "Condominium Association" means MOON BAY CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, said Association being the entity responsible for the operation of the Condominium Property and this Condominium.

(C) By-Laws mean the By-Laws of the Association as they exist from time to time.

(D) Common Elements means the portions of the Condominium Property not included in the Units, including but not limited to: easements through Units for conduits, pipes, ducts, plumbing, wiring, and other facilities for the furnishing of utility service to Units and Common Elements, and easements of support in every portion of a Unit which contributes to the support of the improvements. Each of the Unit Owners shall own an undivided interest in the Common Elements and Limited Common Elements and that undivided interest, stated as the Percentage of such Ownership of each Unit Owner, is set forth in EXHIBIT "2", attached hereto and made a part hereof.

(E) Limited Common Elements means and includes those common elements which are reserved for the use of the Owner or Owners of certain Units to the exclusion of all Owners of other Units, including but not limited to all of the numbered parking spaces described in EXHIBIT "3".

(F) Condominium means that form of ownership of Condominium Property under which units of improvements are subject to ownership by one or more Owners, and there is appurtenant to each Unit, as a part thereof, an undivided share in the Common Elements.

(G) Condominium Act means and refers to the Condominium Act of the State of Florida (Chapter 711 of the Florida Statutes), as the same may be amended from time to time.

(H) Common Expenses means the expenses for which the Unit Owners are liable to the Association.

(I) Common Surplus means the excess of all receipts of the Association from this Condominium including, but not limited to, assessments, rents, profits, and revenues on account of the Common Elements, over and above the amount of common expenses of this Condominium.

(J) Condominium Property means and includes the land in a Condominium, whether or not contiguous, and all improvements thereof, and all easements and rights thereto, intended for use in connection with the Condominium and, where the context so requires or admits, "Condominium Property" or "the Condominium" or "this Condominium" shall mean the property described on EXHIBIT "1" hereto, being the property submitted to a condominium form of ownership by the Declaration.

(K) Assessment means a share of the funds required for the payment of Common Expenses which from time to time is assessed against the Unit Owners, and owners of Boat Slips.

(L) Condominium Unit, or Unit, or Apartment Unit is a Unit as defined in the Condominium Act, referring herein to each of the separate and identified Units delineated in EXHIBIT "3", including such Unit's share of the Common Elements.

(M) Unit Owner, or Owner of a Unit, or Owner or Apartment Unit Owner, means the owner of a Condominium Unit.

(N) Boat Slip means and includes those dock spaces located in the Marina area west of and adjacent to Buildings B and C as delineated in EXHIBIT "3", including such Boat Slip's share of the Common Elements. For purposes of this Declaration of Condominium, Boat Slips and the ownership thereof, shall be treated as separate and distinct from that of Condominium and Apartment Units, unless otherwise expressly provided.

(O) Developers means MOON BAY, INC., a Florida corporation, its successors and assigns.

(P) Occupant means the person or persons, other than the Unit Owner, in lawful possession of a Unit.

(Q) Condominium Documents means those documents specified in ARTICLE IV hereof, as the same may be amended from time to time, and all Exhibits thereto.

(R) Recreational Facilities means that area referred to as such in the Plot Plan, Survey and Graphic Description of the improvements as set forth in EXHIBIT "3".

(S) Unless the context otherwise requires, all other terms used in this Declaration shall be assumed to have the meanings attributed to said terms by Florida statute 711.03 of the Condominium Act.

(T) Institutional First Mortgage is defined to mean a first mortgage originally executed and delivered to a Bank, Savings and Loan Association, Insurance Company, Pension Fund, or Real Estate Investment Trust, an agency of the United States Government, Mortgage Company, Savings Bank, or other similar entity creating a first mortgage lien on a Unit and on any interest appurtenant to such Unit. For purposes of this Declaration of Condominium, the Developer shall be considered an Institutional First Mortgagee, and any mortgage held by the Developer, which is a lien against any of the Units in the Condominium shall be considered an Institutional First Mortgage.

(U) Institutional First Mortgagee is defined to mean any entity as described in subparagraph "T" above, holding a first mortgage lien on a Unit and on any interest appurtenant to such Unit.

(V) Utility Services as used in the Condominium Act and with reference to this Condominium, and as used in the Declaration and By-Laws, shall include but not be limited to telephone, gas, electric power, water and sewerage and garbage disposal.

ARTICLE IV

CONDOMINIUM DOCUMENTS:

The documents by which the Condominium regime will be established are as follows:

(A) This Declaration of Condominium, hereinafter called "Declaration," which sets forth the nature of the property rights in the Condominium Property and the covenants running with the land which govern those rights. All of the other Condominium Documents shall be subject to the provisions of this Declaration.

(B) A Plot Plan Survey, and Graphic Description of the improvements on the property submitted pursuant to the provisions of Chapter 711 Florida Statutes, duly certified as required under said Act, which is marked EXHIBIT "3".

(C) Articles of Incorporation of the Association, which is marked EXHIBIT "4".

(D) By-Laws of the Association, which is marked EXHIBIT "5".

(E) Rules and Regulations of the Condominium which are marked EXHIBIT "6".

(F) Form of Special Warranty Deed by which the Developer will convey particular Units and appurtenances thereto, in the Condominium, to purchasers thereof, which is marked EXHIBIT "7".

(G) Proposed Operating Budget for the Condominium, which is marked EXHIBIT "8".

(H) Receipt, Acceptance and Waiver, which is to be executed by the Unit Owners at the time of acquisition of the title to the Unit, and which is marked EXHIBIT "9".

(I) Form of Agreement of Purchase and Sale, which is marked EXHIBIT "10".

ARTICLE V

DEVELOPER'S UNITS, PRIVILEGES:

(A) The Developer is irrevocably empowered, notwithstanding anything herein to the contrary, to sell, mortgage and/or rent Units to any persons approved by it. The Developer shall have the right to transact on the Condominium Property any business necessary for the offering for sale or rental and/or the sale or rental of Units, and Boat Slips, including but not limited to the right to maintain models, have signs for sales or rentals and otherwise retain employees in its office, use of the Common Elements and to show Units and Boat Slips. Any sales office, signs, fixtures or furnishings or other tangible personal property belonging to the Developer shall not be considered Common Elements and shall remain the property of the Developer.

In the event there are unsold Units, or Boat Slips, or the Developer re-acquires any Units or Boat Slips, the Developer retains the right to be the Owner thereof and to sell, mortgage and/or rent said Units or Boat Slips without the necessity of obtaining the approval of the Association and without the payment of any transfer, leasing, or other type or form of fee or charge.

(B) The Developer retains the right to elect a majority of the members of the Board of Directors of the Association until such time as three (3) years after sales by the Developer have been closed on Fifty Per Cent (50%) of the Units that will be operated ultimately by the Association; or, three (3) months after sales have been closed by the Developer on Ninety Per Cent (90%) of the Units that will be operated ultimately by the Association; or when all of the Units that will be operated ultimately by the Association have been completed and some of them have been sold and none of the others are being offered for sale by the Developer in the ordinary course of business, whichever shall occur first. The Developer shall be entitled to elect not less than one (1) member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business any Units in the Condominium Association, provided that such right may be waived by the Developer at its sole option. For purposes of this subparagraph (B), Developer shall mean Developer, its successors and/or assigns.

(C) The Developer's liability for common expenses will be limited to (and Developer will pay) a proportionate share of the "actual current expenses" of the Condominium Association on all of the Units owned by the Developer, said proportionate share to be the percentage of the Common Expenses for which all such units are responsible,

as reflected on EXHIBIT "2". "Actual current expenses" shall mean and include only those expenses paid for by the Condominium Association each month for services, materials or other items actually consumed or utilized during the month within which payment is made of the month preceding or following such month, plus a pro rata share of a reasonable reserve for annual taxes and insurance premiums. "Actual current expenses" will not include any other expenses or expenditures, such excluded items specifically including but not being limited to any prepayments or expenses or reserves for capital improvements or betterments. Developer will be billed and will pay for its share of common expenses monthly, in arrears. This limitation upon payment by the Developer will terminate not later than the first day of the fourth calendar month following the month in which this Declaration is recorded, or the first day of the month of the third succeeding calendar month after the closing of the purchase and sale of any condominium unit within the Condominium to a Unit Owner who is not the Developer, the Nominee of the Developer, or a substitute or alternative Developer, whichever shall be the later date; provided that the Developer shall be obligated to pay that portion of the common expenses incurred during that period which exceed the amount assessed against other Unit Owners.

(D) The Developer reserves the right to change the location, design and boundaries between all Units which it may own and change their respective shares in the Common Elements, provided, however, that such changes shall not affect the percentage of interest of other Unit Owners, as set forth in EXHIBIT "2". If the Developer shall make any such changes, such changes shall be reflected by an amendment of this Declaration reflecting such alteration by the Developer and shall only be required to be signed and acknowledged by the Developer and members as to the changed Units and need not be approved by the Association, Unit Owners, or any other persons whomsoever.

ARTICLE VI

OWNERSHIP OF CONDOMINIUM UNITS, MAINTENANCE AND ALTERATIONS:

Each Condominium Unit shall include the following interest, rights, easements and appurtenances:

(A) REAL PROPERTY. Each Condominium Unit together with all appurtenances thereto, shall constitute a separate parcel of real property which shall be owned in fee simple and which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property independently of all other parts of the Condominium Property, subject only to the provisions of the Condominium Documents and shall have as an appurtenance thereto an undivided share in the Common Elements as set forth in EXHIBIT "2" attached hereto and made a part hereof by reference.

(B) POSSESSION. Each Unit Owner shall be entitled to the exclusive possession of his Unit.

(C) UNIT BOUNDARIES. Each Unit shall include that part of the Condominium Building containing the Unit that lies within the following boundaries:

(1) UPPER AND LOWER BOUNDARIES. The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:

(a) Upper Boundary: The horizontal plane of the unfinished ceiling surface.

(b) Lower Boundary: The horizontal plane of the unfinished surface of the floor.

(2) PERIMETRICAL BOUNDARIES. The perimetrical boundaries of each Unit shall be the following boundaries extended to an intersection with the upper and lower boundaries.

(a) Exterior Building Walls. The intersecting vertical planes adjacent to and which include the unfinished surface of the interior of the outside walls of the Condominium Building bounding a Unit and when there is attached to the Building a balcony, loggia, lanai, Florida room, canopy, stairway or other portion of the Building appurtenant only to the Unit being bounded, such boundaries shall be the intersecting vertical planes adjacent to and which include all of such structures and fixtures thereon.

(b) Interior Building Walls: The vertical planes of the interior unfinished surfaces of walls bounding a Unit extended to intersections with other perimetrical boundaries.

(c) The Owner of a Unit in the Condominium Property shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors or ceilings surrounding his Unit, nor shall said Owner be deemed to own supporting columns, pipes, wires, conduits or other public utility lines running through the walls of the said Unit, which are utilized for more than one (1) Unit, and said items are by this Declaration hereby made a part of the Common Elements. Said Owner, however, shall be deemed to own the interior walls and partitions which are contained within said Owner's Unit, provided, however, that such walls are not used for the support of the building, and, also, shall be deemed to own the inner decorated and/or unfinished surfaces of the perimeter walls, floors, ceilings, including plaster, paint, wallpaper, etc. contained in said Unit.

(D) APPURTENANCES. The ownership of each condominium Unit shall include, and there shall pass with each Condominium Unit as appurtenances thereto, whether or not separately described, all of the rights, title and interest of a Unit Owner in the Condominium Property which shall include but not be limited to the right to use in common with the other Unit Owners the Common Elements as defined in subparagraph (D) of ARTICLE III herein. The ownership of each Unit shall include and there shall pass with each Unit as appurtenances thereto, the title and interest of a Unit Owner in the Condominium Property and in the Common Surplus. Each Unit shall have an undivided share in and to the common areas, facilities and elements of the Condominium and each Unit shall bear a share of the common expenses of the Condominium in accordance with the percentage of ownership attributable to each Unit as set forth in EXHIBIT "2" attached hereto.

In the event of the termination of the Condominium, each Owner's interest in the Common Elements, areas and facilities, and in the common surplus, and in the common expense, shall be in proportion to said Owner's interest in the Common Elements set forth in EXHIBIT "2".

(E) EASEMENT TO AIR SPACE. The appurtenances shall include an easement for the use of the air space occupied by the Unit as it exists at any particular time and as the Unit may be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is permanently vacated.

(F) CROSS EASEMENTS. The appurtenances shall include the following easements from each Unit Owner to each other Unit Owner and to the Association.

(1) Ingress and Egress: Easements through the Common Elements for ingress and egress.

(2) Maintenance, Repair and Replacement: Easements through the Units and Common Elements as may reasonably be required for maintenance, repair and replacement of the Units and Common Elements. Such access to the Units shall be only during reasonable hours except that access may be had at any time in case of emergency.

(3) Support: Every portion of a Unit contributing to the support of any building on the Condominium Property shall be burdened with an easement of support for the benefit of all other Units and Common Elements in the building.

(4) Utilities: Easements through the Units, and Common Elements for conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services to other Units and the Common Elements, provided, however, that such easements through a Unit shall be only according to the plans and specifications for the building in which the Unit is located unless approved in writing by the Owner of the Unit.

(G) MAINTENANCE. The responsibility for the maintenance of a Unit shall be as follows:

(1) By the Association: The Association shall maintain, repair and replace at the Association's expense:

(a) All portions of any Unit, except interior wall surfaces not contributing to the support of the building, which portions shall include but not be limited to the roof, outside walls of the Condominium, interior boundary walls of Units and loadbearing columns.

(b) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portions of the Unit contributing to the support of the building or within interior boundary walls; and all such facilities contained within a Unit which service part or parts of the Condominium other than the Unit within which such facilities are located.

(c) All damage to a Unit caused by such maintenance shall be promptly repaired by and at the expense of the Association.

(d) The Association has and shall have all powers necessary to discharge this responsibility, and may exercise such powers

exclusively if it so desires, or may delegate a part of all such powers as elsewhere provided for in the Condominium Documents.

(2) By the Unit Owner: The responsibility of each Unit Owner shall be as follows:

To maintain in good condition and repair his Unit and all interior surfaces within his Unit and the entire interior of his Unit, (including where applicable, a storage room patio, terrace, balcony, and any screening thereof regardless of whether said area is an interior part of a Unit or an exterior part of a Unit or a Limited Common Element for the exclusive use of a Unit); and to maintain and repair the fixtures and equipment therein, which includes but is not limited to the following, where applicable: air-conditioning and heating units, including condensers and all appurtenances thereto wherever situated; refrigerators, hot water heaters, stoves and all other appliances; drains, plumbing fixtures and connections; sinks, all plumbing and water lines within the Unit; electric panels, electric wiring and electric outlets and fixtures within the Unit; interior doors of any type or nature, including sliding glass doors, where applicable, windows, screening and glass; and where applicable, the screening on a patio, terrace or balcony; all exterior doors, including sliding glass doors including the glass of same and the operating mechanism, (except the painting of the exterior of exterior doors shall be a common expense of the Condominium); and pay for all his utilities - i.e., electric, water, sewage and telephone. Garbage disposal shall be a part of the common expenses if billed to the Condominium as to all Units in the Condominium; however, if individual bills are sent to each Unit by the party furnishing such service, each Unit Owner shall pay said bill for his Unit individually. Where a Unit is carpeted, the cost of maintaining and replacing the carpeting shall be borne by the Owner of said Unit.

(H) ALTERATION AND IMPROVEMENT:

(1) No Unit Owner or Owner of a Boat Slip shall without first obtaining the prior written approval of the Association make any alteration or addition in or to any portion of his Unit or Boat Slip or of the Condominium Property, or remove any portion thereof, or make any addition thereto, or do any work which would jeopardize the safety or soundness of the Condominium or impair any easement.

(2) No Unit Owner or Owner of a Boat Slip shall without first obtaining the prior written approval of

the Association make any alteration, modification, decoration, repair, replacement, enclosure or change of the Common Elements, Limited Common Elements, dock area, balcony or terrace, or to the exterior of any door or door-jamb which opens into any of the Common Elements or common areas of the Condominium Property, or any exterior hallway lights, including but not limited to the erection of any awning, storm shutters, or other device, window covering, fixtures, paintings, or wall coverings, or any other changes or alterations which would in any way or manner whatsoever change the physical and visual appearance of the Unit or Boat Slip, including any balcony which is a part of the Unit.

(I) PARKING SPACES:

(1) The Developer shall have the right to designate parking spaces to each individual Unit Owner and the parking spaces so designated, even though a Limited Common Element, shall not be subject to redesignation by the Board of Directors and said parking spaces so designated by the Developer shall upon conveyance of the Condominium Unit by the Unit Owner, likewise pass to the new Unit Owner. The parking space shall at no time be conveyed separate and apart from the Condominium Unit. Parking spaces may be designated by the Developer as aforesaid, by a separate instrument in non-recordable form.

(2) Notwithstanding the fact that the parking spaces are reserved for the exclusive use of a particular Condominium Unit and are Limited Common Elements, they shall be maintained, repaired, replaced and assessed for such maintenance, repair and replacement as and in the manner that Common Elements are maintained, repaired, replaced and assessed.

(3) The Developer shall have the right to sell or lease any parking spaces which have not been designated to an individual Unit Owner, including without limitation the right to sell or lease such parking spaces to Owners of Boat Slips.

(J) IDENTIFICATION OF BUILDINGS, UNITS AND BOAT SLIPS: This Condominium consists of three (3) buildings designated by the names "BUILDING A", "BUILDING B", and "BUILDING C", respectively, as reflected on the Plot Plan, Survey and Graphic Description of the improvements, as more fully set forth on EXHIBIT "3". Each Condominium Unit is described and located on EXHIBIT "3" and is designated by an arabic number. Buildings may have similar Unit Numbers, and, therefore, Units are further identified by referring to the Building Number, e.g.:

Unit No. 101, Building B. Boat Slips are described and located on EXHIBIT "3" and are designated by an Arabic number preceded by the letters BS, e.g.: BS1.

(K) PARTITION: No action for partition may be initiated by or shall lie in favor of any Owner of a Unit so long as the Condominium is in existence.

ARTICLE VII

ASSESSMENTS:

Assessments against the Unit Owners including Owners of Boat Slips, shall be made by the Association and shall be governed by the following provisions:

(A) SHARE OF EXPENSE, COMMON EXPENSE. The expense of operation and maintenance of the Common Elements shall be a Common Expense and shall be borne by the Condominium Unit Owners in accordance with the percentage of ownership attributable to each Unit as set forth in EXHIBIT "2" attached hereto. No Unit Owner shall have the right to withdraw or receive distribution of his share of the Common Surplus.

(B) LIABILITY OF UNIT OWNER. Each Unit Owner shall be liable for that share of the said Common Expense as specified in Paragraph (A) of this ARTICLE VII. Assessments and monthly installment payments thereof shall commence immediately upon the sale and conveyance of the Unit by the Developer to a Grantee other than a Developer's nominee, substitute or alternate Developer.

(C) LIABILITY OF DEVELOPER. The liability of the Developer with respect to its share of the Common Expenses for its unsold Apartment Units shall be as set forth in ARTICLE V, Paragraph (C).

(D) ASSESSMENT ROLL. The assessments for Common Expenses shall be set forth upon a roll of the Units which shall be available in the office of the Association for inspection by Unit Owners at all reasonable times. Such roll shall indicate for each Unit the name and address of the owner or owners, the assessments for all purposes, and the amounts paid and unpaid for all assessments.

(E) ASSESSMENTS FOR RECURRING EXPENSES. Assessments for recurring expenses for each account shall include the estimated expenses chargeable to each Unit Owner's account and a reasonable allowance for contingencies, deferred maintenance and reserves, less the unused fund balance credited to such account. Assessments shall be made for the calendar year annually in advance on December 1st preceding the year for which assessments are made. Such assessments shall be due in twelve (12) equal consecutive monthly payments,

payable on the first day of each month of the year for which the assessment is made, provided however, that upon default in the making of any such installment payment, the entire assessment for the current calendar year shall forthwith be due and payable, without notice.

(F) SPECIAL ASSESSMENTS. Special assessments shall include all other assessments as may be made by the Board of Directors from time to time to meet other needs or requirements of the Association in the operation and management of the Condominium, including but not limited to such items as capital expenditures and replacements. Any such special assessment in an amount exceeding \$250.00 per year per Unit which is not a recurring expense, shall not be levied without the prior approval of Owners owning at least Seventy-five Per Cent (75%) of the Condominium Units, provided, however, that any assessment levied under the provisions of ARTICLE X, for the purpose of reconstruction or repair by the Association of any damage to a Unit or to the Common Elements shall not require such consent; further, provided, however, that said assessment or assessments be made only if said damage is to be repaired or reconstructed, as provided in the Declaration of Condominium. Special assessments will be assessed against and borne by the Owners of the Units in the same manner as assessments for other Common Elements except that such special assessments shall be due and payable not later than thirty (30) days after notice thereof, or as otherwise determined by the Board of Directors of the Association.

(G) ASSESSMENT FOR LIENS. All liens of any nature, including but not limited to taxes and special Assessments levied by any governmental authority, which are a lien upon more than one Unit or on any portion of the Common Elements shall be paid by the Association as a Common Expense and shall be assessed against the Units in the same manner as are all other Common Expenses. Approval of the Condominium Association shall not be required for emergency assessments.

(H) ASSESSMENTS FOR EMERGENCIES. Assessments for emergencies of Common Expenses requiring immediate repair which cannot be paid from the assessment for recurring expenses, shall only be made after approval of the Board of Directors of the Condominium Association. After such approval by the Board of Directors, such emergency assessment shall become effective, and it shall be due thirty (30) days after notice thereof in such manner as the Board of Directors may require. Assessments for emergencies will otherwise be assessed

against and borne by the Owners of the Units in the same manner as other Common Expenses. Approval of the Condominium Association shall not be required for emergency assessments.

(I) LIABILITY FOR PAYMENT IN THE EVENT OF FORECLOSURE. In the event of foreclosure by an Institutional First Mortgagee of an Institutional First Mortgage encumbering a Unit, the Purchaser of such Unit at such sale, his successors or assigns, shall not be liable for the unpaid portion of assessments attributable to such Unit for the period prior to and ending with the date of the foreclosure sale, but such unpaid portion of the assessments shall be deemed to be a Common Expense, assessable against and collectible from the Unit Owners, excluding the purchaser, his successors or assigns. The foregoing provision shall also be applicable to the conveyance of a Unit to a First Mortgagee in lieu of foreclosure. The foregoing exemption for payment of assessments is in addition to and in no way restrictive of the additional exemptions granted herein to mortgagees under the provisions of ARTICLE X hereof.

(J) LIABILITY FOR ASSESSMENTS. The owner of a Unit and his grantees shall be jointly and severally liable for all unpaid assessments due and payable at the time of a conveyance but without prejudice to the rights of a grantee to recover from the grantor the amounts paid by the grantee therefor. Such liability may not be avoided by a waiver of either the grantor or grantee of the use or enjoyment of any Common Element or by abandonment of the Unit with respect to which the assessment is made. Except as provided in subparagraph (I) hereof, a purchaser of a Unit at a judicial sale, or a mortgagee acquiring title thereto by deed in lieu of foreclosure shall be liable for all assessments unpaid and due and payable when title is acquired and becoming due anytime thereafter.

(K) LIEN FOR ASSESSMENTS. Any unpaid portion of any assessment specified in paragraphs (E), (F), (G), and (H) of ARTICLE VII which is due shall constitute a lien upon:

(1) The Unit and all appurtenances thereto, which liens shall become effective upon the recordation of a claim of lien by the Association in the Public Records of Monroe County, Florida, which claim of lien shall not be recorded until the payment is past due for at least ten (10) days. When recorded, this lien shall be effective against the Owner of the Unit(s) against which the claim of lien has been filed as well as against all parties having constructive knowledge thereof, by virtue of such recordation, and,

(2) All tangible personal property located in the Unit except that such lien shall be subordinate to bona fide Institutional First Mortgages,

(L) COLLECTIONS.

(1) Assessments and installments paid on or after ten (10) days after due date shall bear interest at the rate of Ten Per Cent (10%) per annum from due date until paid. All payments shall be applied first to interest, if accrued, and then to the assessment payment first due.

(2) The Association may enforce collection of any delinquent assessment by suit at law for the purpose of securing money judgments without in any way waiving any lien which secures the same in such suit, the Association may recover, in addition to any assessments due it, interest thereon at the rate of ten per cent (10%) per annum, and any and all costs incurred in connection with such suit, including reasonable attorney's fees.

(3) In addition to any other remedies available to the Association, the Association may foreclose its lien for delinquent assessments in a suit brought in the name of the Association in like manner as the foreclosure of a mortgage on real property. In any such foreclosure, the Owner shall be required to pay a reasonable rental for the Condominium Unit, which rental is hereby declared to be no less than the monthly assessments normally chargeable against said Owner, including any assessment for Common Expenses assessed against said Owner. The Association, in such foreclosure, shall be entitled to the appointment of a receiver to collect said rental for the Association. In addition thereto, the Association shall be entitled to recover in said foreclosure all costs incurred in connection with such suit, including reasonable attorney's fees and appellate attorney's fees incurred by it in connection therewith. The Association may bid on the Unit at said foreclosure sale and thereafter may acquire, hold, lease, mortgage and/or convey the same.

(M) UNPAID ASSESSMENTS. In the event that either any assessment or any installment thereof levied against any Unit Owner shall remain unpaid for ninety (90) days or more, then so long as such delinquent assessments and/or installments are not received by the Association, such unpaid assessments and/or installments shall be deemed to be a common expense and treated in a manner consistent with the provisions for the assessment and collection of common expenses.

(N) CONTINUING OBLIGATION. Nothing contained herein shall be deemed to discharge a Unit Owner from his obligation to pay any assessment owed to the Association.

(O) LIMITATION OF LIABILITY. The liability of a Unit Owner for Common Expenses shall be limited to amounts for which he is assessed from time to time in accordance with the Condominium Act, this Declaration of Condominium and the By-Laws.

ARTICLE VIII

OWNERSHIP OF THE COMMON SURPLUS AND OF THE COMMON ELEMENTS:

The Common Surplus, the Common Elements and the Limited Common Elements shall be owned by the Condominium Owners in accordance with the percentage of ownership attributable to each Unit as set forth in EXHIBIT "2" attached hereto.

ARTICLE IX

THE OPERATING ENTITY:

(A) ADMINISTRATION. The Association will be responsible for the operation of the Condominium and shall have all of the powers, duties and obligations set forth in the Condominium Act, as well as all the powers and duties as are granted to and obligations imposed upon it by the Condominium Documents. Each Owner of a Condominium Unit, whether said Unit is acquired by purchase, conveyance, transfer by operation of law, or otherwise, shall be bound by the Condominium Documents.

(B) OPERATING PROCEDURES. The Association shall maintain accounting records according to good accounting practices, which records shall be open to inspection by Unit Owners at reasonable times, reasonable written summaries of which records shall be supplied at least annually by the Association to Unit Owners. Such records shall include:

(1) A record of all receipts and expenditures.

(2) An Account for each Unit which shall designate the name and address of the Unit Owner, the amount and due date of each assessment, the amounts paid upon the account and the balance due.

(C) MEMBERSHIP AND VOTING RIGHTS. Membership in the Association is automatic upon acquisition of ownership of a Condominium Unit and may not be transferred apart and separate from a transfer of the ownership of the Unit. Membership shall likewise automatically terminate upon sale or transfer of the Unit, whether voluntarily or involuntarily. There shall be one person with respect to each Unit who shall be entitled to vote at any meeting of the Association. Such person shall be known (and is hereinafter referred to) as "Voting Member".

If a Unit is owned by more than one person, the Owners of said Unit shall designate one of them as the Voting Member, or in the case of a Corporate Unit Owner, an Officer or employee thereof shall be the Voting Member. The designation of the Voting Member shall be made as provided by and subject to the provisions and restrictions set forth in the By-Laws of the Association. The total number of votes shall be equal to the total number of Units in the Condominium and each Condominium Unit shall have no more and no less than one (1) equal vote in the Association. If one Owner owns more than one (1) Unit, he shall be entitled to one (1) vote for each Unit so owned. The vote of a Condominium Unit is not divisible.

(D) MANAGEMENT AGREEMENT. In order to facilitate the operation of the Condominium Property, and in order to maintain the Condominium and the Common Elements, the Association shall have the right to enter into a Management Agreement with a Management Company. The fact that such a Management Agreement may be entered into with a Management Company shall in no way prevent the Association from terminating that contract in accordance with the applicable statutes, and entering into a Management Agreement with any other Management Company, nor is it intended to defeat any rights of the Association with respect to such Management Company which the Association may have under the laws of the State of Florida or under any Management Agreement.

(E) BOAT SLIPS. The ownership of a Boat Slip shall not entitle the Owner thereof to vote in the affairs of the Condominium Association, nor shall such ownership increase the vote which a Unit Owner would otherwise have in the affairs of the said Association.

ARTICLE X

INSURANCE:

The Association shall obtain liability insurance in such amounts as the Board of Directors may from time to time determine for the purpose of providing liability insurance coverage for the Common Elements of this Condominium, but in no event shall said coverage be less than limits of \$100,000/300,000. The Association shall collect and enforce the payment of that share of the premium for such insurance attributable to each Unit Owner, including Owners of Boat Slips, as an assessment in accordance with the provisions of ARTICLE VII hereof. The Owner of a Unit shall have no personal liability for any damages caused by the Association on or in connection with the use of the Common Elements. Each Unit Owner including Owners of Boat Slips, shall be liable for injuries or damage resulting from an accident in, on or about, his own Unit to the same extent and degree that the Owner of a

house would be liable for an accident occurring within the house, and shall be responsible for purchasing liability insurance to insure against the foregoing.

(A) PURCHASE OF INSURANCE. The Association shall keep insured the Condominium Property, including all improvements erected upon the Condominium Property, and all other insurable interests on the Condominium Property, including fixtures and personal property owned by the Association, and all Units contained therein, in and for the interest of the Association, all Unit Owners, including Owners of Boat Slips, and their mortgagees as their interests may appear, in an amount which shall be equal to the maximum insurable replacement value as determined annually by the insurance carrier or carriers, if such insurance is available, against (a) loss or damage by fire and hazards covered by a standard coverage endorsement, and (b) such other risks of a similar or dissimilar nature as are customarily covered with respect to buildings similar in construction, location and use to the buildings erected upon the Condominium Property. Because of the location of the Condominium Property, the Association is authorized to obtain and accept a policy with a deductible clause, but only if the Association cannot obtain reasonable coverage without such a clause; any and all such insurance, so purchased by the Association, shall be purchased from an insurer having a Best rating of not less than "AA".

The Directors shall have no liability to the Association, the Owners or any other person for the failure to obtain insurance without a deductible clause and/or for the failure to obtain insurance in the full amount of the coverage required hereunder if in good faith a majority of their whole number shall have determined that such insurance is not reasonably available.

(B) ASSURED AND LOSS PAYABLE. All casualty insurance policies purchased by the Association hereunder shall be for the benefit of the Association, all Unit Owners and their mortgagees as their interest may appear, and shall provide that all proceeds covering casualty losses of \$3,000.00 or less shall be paid to the Association. Losses in excess of \$3,000.00 shall be paid to a Trustee which shall be any Bank or Trust Company authorized to and doing business in Dade or Monroe County, Florida, designated by the Association and approved by a majority of the mortgagees of the Units in the Condominium Property (the term "majority" meaning the holders of debts secured by first mortgages, the unpaid balance of which is more than one-half of the unpaid principal balance of all first mortgages on said Units). Said Trustee is herein referred to as "Insurance Trustee". The Insurance Trustee shall not be liable

for the payment of premiums or the sufficiency of premiums, nor for the failure to collect any insurance proceeds. The Insurance Trustee shall be responsible only for monies which come into its possession and only for its willful misconduct, bad faith or gross negligence. The duty of the Insurance Trustee shall be to receive such proceeds as are paid to it and to hold the same in trust pursuant to the terms of a Trust Agreement between the Association and the Insurance Trustee, the terms of which Agreement shall not be inconsistent with any of the provisions herein set forth.

(C) PAYMENT OF PREMIUMS; TRUSTEE'S EXPENSES AND COLLECTION. All premiums for all insurance required to be carried by the Association, and all fees and expenses of the Insurance Trustee shall be deemed to be a part of the Common Expenses and shall be assessed by the Condominium Association against the Unit Owners in the manner consistent with the assessment and collection of Common Expenses generally.

(D) MANDATORY REPAIR. Unless there occurs actual or constructive total loss to the improvements on the Condominium Property, subject to the provisions hereinafter provided, the Association and the Unit Owners shall repair, replace and rebuild the damage caused by casualty loss as their interests appear and pay the cost of the same in full. All repairs or replacements made by either the Association or the Unit Owners shall be made in accordance with the original final plans for said improvements which plans shall be kept and shall remain available for such purpose in the office of the Association. In the event that the insurance proceeds are insufficient to repair, replace, and/or rebuild the damages caused by the casualty, the Association shall collect whatever additional monies are required for such repair, replacement and/or rebuilding by means of a special assessment. Such special assessment shall be assessed and collected in the manner provided for special assessments generally, and shall be treated in the manner set forth in subparagraph (F) of ARTICLE VII herein. The selection of the construction fund depository, the disbursing agent, as well as all disbursements from such construction fund, shall be subject to the approval of any Institutional Mortgagee.

(E) DETERMINATION OF DAMAGE AND USE OF PROCEEDS.

(1) Immediately after a casualty causing damage to any part of the Condominium Property, the Association shall obtain reliable and detailed estimates of the cost to repair and replace the damaged property to a condition the same as the condition that existed prior to the

casualty loss. Upon receipt of such estimate or estimates, the Association shall immediately furnish a copy of each different estimate to each of the Unit Owners' provided, however, that if a casualty causes damage to a single Unit, then it shall be the responsibility of that Unit Owner to obtain estimates of the cost of replacement or repair as aforesaid. If the net proceeds of insurance are insufficient to pay the estimated cost of reconstruction and repair, the Association shall promptly, upon determination of deficiency, levy a special assessment against all Unit Owners in proportion to the Unit Owners' share in the Common Elements for that portion of the deficiency as is attributable to the cost of the restoration of the Common Elements and against individual Unit Owners for that portion of the deficiency related to damages to individual Units; provided, however, that if, in the opinion of the Association, it is impossible to determine accurately and adequately the portion of the deficiency relating to damages to individual Units, the Association shall levy the special assessment for the total deficiency against each of the Unit Owners, as a Common Expense, according to the percentages set forth in EXHIBIT "2" of this Declaration. The determination of the Board of Directors of the Association as to that portion of the deficiency to be assessed against individual Unit Owners and as to which individual Unit Owners are liable therefor shall be conclusive and binding.

(2) Unless there occurs actual or constructive total loss of the improvements on the Condominium Property, and as a result thereof the Unit Owners fail to elect to rebuild and repair as provided in Paragraph (F) below, both the net proceeds of all amounts collected by the Insurance Trustee and all funds collected by the Association from the special assessment provided for in Paragraph (D) and (E) of this Article shall be expended to repair, replace and/or rebuild any damages or destruction of the Condominium Property and the balance remaining, if any, shall be paid to the Unit Owners and their mortgagees as their interests may appear. The proceeds of insurance and the funds collected by the Association from the assessments as hereinabove provided shall be held by the Insurance Trustee and the Association in trust for the use and purposes herein provided. The Insurance Trustee shall have no obligation or duty to see that the repairs, reconstruction or replacements required hereunder are performed or accomplished, but such duty shall be the Association's.

(F) TOTAL DESTRUCTION. Should there occur actual or constructive total loss of the improvements on the Condominium Property, the Condominium Property shall not be reconstructed unless the Owners of two-thirds (2/3) of all of the Units shall agree thereto, in writing, within (60) days after notification of the Unit Owners by the Association as provided for in paragraph (E) (1) of this ARTICLE X of the casualty loss or damage. In the event such reconstruction is not approved as aforesaid, the Association shall direct the Insurance Trustee and the Insurance Trustee is and shall be authorized to pay proceeds of the insurance to the Unit Owners and their mortgagees as their interests may appear, and the Condominium Property shall be deemed to be removed from the provisions of the Condominium Act with the results provided for by Florida Statutes, Section 711.16, as amended. The determination not to reconstruct after casualty shall be evidenced by a certificate, signed by the President and Secretary of the Association, stating that the said sixty (60) day period has elapsed and that the Association has not received the necessary writings from the Owners of two-thirds (2/3) of the Units, upon which certificates the Insurance Trustee may rely.

(G) RIGHTS OF MORTGAGEES. If any Institutional First Mortgagee of any Condominium Unit shall require it, the Association shall, from time to time deposit in a savings account established for the purpose, or with the Insurance Trustee, sufficient monies in escrow to insure the payment of the casualty insurance premiums insuring the Condominium Property. A majority of such mortgagees as hereinabove defined may designate the Bank, Savings and Loan Association or Insurance Trustee as the depository of these funds and may determine the provisions of the escrow, but only one such escrow account shall be required. However, the Association shall not be required to fund this escrow more frequently than once a month nor deposit therein from month to month an amount greater than one-twelfth (1/12) of the reasonably estimated casualty insurance premium next due, per month. Should the Association fail to pay such premium when due, or should the Association fail to comply with other insurance requirements, of the Institutional First Mortgagee, said Institutional First Mortgagee shall have the right, at its option, to order insurance policies and to advance such sums as are required to maintain or procure such insurance, and to the extent of the money so advanced, said mortgagee shall be subrogated to the assessment and lien rights of the Association as against the individual Unit Owners for the payment of such item of Common Expense. The holder of any mortgage who in accordance with the provisions of such mortgage shall have the right to demand insurance proceeds in the event of a casualty loss to the property secured by said mortgage, waives the right to such proceeds if proceeds are used pursuant to this Declaration of Condominium to repair, replace or rebuild the property subject to the mortgage lien. However, nothing herein shall be deemed a waiver by the

mortgagee of its rights, if any to require that any surplus proceeds over and above the monies actually used for repair, replacement or reconstruction of the property subject to the mortgage, be distributed to the mortgagee and the Unit Owner as their interests may appear. Both the Unit Owner and holder of any Institutional First Mortgage on such Unit shall have the right to approve the plans and proposals for any repairs, reconstruction or replacements to the Unit or Units encumbered by its mortgage or mortgages, and no such repairs, reconstruction or replacements shall be begun or undertaken without such approval, which approval shall not be unreasonably withheld.

Notwithstanding anything contained in this ARTICLE to the contrary, an Institutional First Mortgagee shall always be entitled to receive, in reduction of its mortgage debt that portion of insurance proceeds apportioned to its mortgaged Unit in the same share as the share in the Common Elements appurtenant to such Unit, in the event: (a) Its mortgage is not in good standing and is in default; or (b) Insurance proceeds are not sufficient to complete restoration, reconstruction or repair and the Association has not made additional funds available for such purpose; or (c) It is determined to restore, repair or reconstruct the improvements in a manner or condition substantially different from that existing prior to the casualty and such Mortgagee has not consented in writing to such change or alteration.

(H) ASSOCIATION AS AGENT. The Association is hereby irrevocably appointed agent for each Unit Owner to adjust all claims arising under insurance policies purchased by the Association, and to execute releases therefor.

ARTICLE XI

TAXES:

(A) The Condominium Act provides that property taxes and special assessments assessed by municipalities, counties and other taxing authorities shall be assessed against the Condominium Units individually and not upon the Condominium Property as a whole. Such taxes, when assessed shall be paid by each Unit Owner, and this assessment shall be in addition to each Unit Owner's share of the Common Expenses.

(B) Whenever a tax is assessed against the Condominium Property as a whole instead of against each Condominium Unit, such tax shall be treated as a Common Expense and shall be borne by the Unit Owners in the proportions specified in EXHIBIT "2".

ARTICLE XII

USE RESTRICTIONS:

The use of the Condominium Property shall be in accordance with the following provisions:

(A) RESIDENTIAL USE. Each Unit shall be used only for residential purposes. The Association may promulgate such Rules and Regulations pertaining to the use and occupancy of the Units as it, in its sole discretion, deems necessary or desirable.

(B) BOAT SLIPS. Each Boat Slip shall be used solely for purposes of non-commercial boat dockage and purposes incidental thereto. The Association may promulgate such Rules and Regulations pertaining to the use of Boat Slips as it, in its sole discretion deems necessary or desirable.

(C) NUISANCES. No nuisance shall be allowed upon the Condominium Property nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium Property by its residents. Unit Owners and Occupants shall be permitted to keep pets provided that the maintenance of such pets in their Condominium Units shall not constitute a nuisance. It shall be the obligation of the Association to promulgate and enforce whatever rules and regulations it deems appropriate to prevent the abuse of the pet privilege by those Unit Owners and Occupants having pets. Any pet causing or creating a nuisance or disturbance shall be permanently removed from the Condominium Property forthwith upon written notice from the Board of Directors of the Association, acting through one of the duly elected Officers of the Association.

(D) LAWFUL USE. No immoral, improper, offensive, or unlawful use shall be made of the Condominium Property nor any part thereof; and all laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the Condominium Property shall be the same as the responsibility for the maintenance and repair of the property concerned.

(E) LEASING OR RENTING. The owner of any Condominium Unit is permitted to lease his Unit, except that any such lease shall not relieve the Unit Owner of his obligations as provided in the Condominium Documents. The lessee need not be approved by the Condominium Association; however, all such lessees must

execute those documents which the Association may reasonably require in order to insure that the rights of other Unit Owners shall not be derogated during the term of the lease and, also, to assume and agree to be bound by the Condominium Documents during the terms of their tenancy. Any Owner leasing or renting his Unit shall promptly notify the Board of Directors of the names of the persons occupying said Condominium Unit.

(F) COMMERCIAL USAGE. No Condominium Unit, or Boat Slip, whether owned or leased, may be used to conduct any trade or business, the conduct of which would require the license or certification from any municipal, county, state or federal agency or licensing authority.

(G) RULES AND REGULATIONS. The Board of Directors may adopt and promulgate Rules and Regulations concerning the use and occupancy of the Units and the Condominium Property and otherwise involving or concerning the Condominium, all of which Rules and Regulations will be enforceable against and binding upon all owners and Occupants. Initial Rules and Regulations of the Condominium have been adopted and are attached hereto as EXHIBIT "6", and may be amended from time to time by the Board of Directors of the Association. Copies of such Rules and Regulations and Amendments thereto shall be furnished to all Unit Owners. Any Amendments to the Rules and Regulations by the Board of Directors shall not be required to be filed as an Amendment to the Declaration of Condominium, nor recorded among the Public Records.

(H) MODEL UNITS. The Developer shall have and retains the right to use and show as Model Unit(s), any Unit in the Condominium Property owned by Developer, and to display signs in reasonably appropriate places on the Condominium Property, entrance, foyer of the appropriate building, and upon the door of such Unit as to advise the public of the availability of these Units for sale and/or rental and of other matters pertaining thereto. Developer, its agents, servants, employees and lawful invitees may come upon the Condominium Property in a lawful manner for the purpose of showing and viewing such Model Units and otherwise conducting Developer's business of selling or renting such Units, irrespective of whether said Units are with the Condominium Property.

ARTICLE XIII

CONVEYANCES, TRANSFERS AND ENCUMBRANCES OF UNITS:

(A) CONVEYANCES. In order to insure a community of congenial residents and thus protect the value of the Units, the sale or exchange of Units by any Owner other than the Developer shall be subject to the following provisions so long as the Condominium exists:

(1) Any Unit Owner who enters into an Agreement to sell his Unit, shall within ten (10) days after the execution of such agreement, furnish to the Association written notice of the name or names and residence addresses of the proposed purchaser or purchasers together with a copy of the said agreement. The Owner shall also furnish the Association with such other information as the Association may reasonably require. Notice shall not be deemed to be given if it is erroneous in any material aspect.

(2) Upon receipt of the Association of the notice required in subparagraph (1) of paragraph (A) of this ARTICLE XIII, the Association shall have ten (10) days from receipt to approve or disapprove the proposed purchaser. If the Association disapproves of the proposed purchaser, the Association shall, within thirty (30) days after such disapproval, but in no event later than forty (40) days after receipt of notice by the Seller, furnish the Seller with an approved purchaser who will accept the terms of sale as favorable to the Seller as those terms initially set forth in the notice to the Association by the Seller. In the event that the Association does not furnish to the Seller a substitute purchaser in the manner provided above, the Seller shall be free to sell his Unit to the purchaser initially proposed by him, and the Association shall provide said purchaser with an approval. Any approval by the Association shall be in recordable form and delivered by the Association to the purchaser, and no sale of any Unit shall be valid without such approval.

(3) No Unit Owner shall sell, transfer, convey or lease his Unit unless and until all past due assessments are paid, or their payment provided for to the satisfaction of the Association.

(4) If a Unit Owner shall lease his Unit, he shall remain liable for the performance of all the agreements and covenants in the Condominium Documents, and he shall be liable for the violations by the lessee of any and all provisions contained therein.

(5) Every purchaser or lessee, who acquires any interest in a Unit, shall acquire the same subject to the Condominium Act.

(6) The Board of Directors of the Association shall have the right and power to establish and assess a reasonable "transfer fee" as provided by Section 711.08(2), Florida Statutes, to be paid by the transferor (other than the Developer) of a Unit as a condition precedent to the validity of the transfer.

(B) DECEASED UNIT OWNERS.

(1) If the Owner of a Unit should die and the title to his Unit shall pass to his surviving spouse or to any immediate member of his family regularly in residence with him in the Unit prior to his death, such successor in title shall fully succeed to the ownership, rights, duties and obligations of the Unit Owner, the provisions of subparagraph (1) of Paragraph (A) of ARTICLE XIII of this Declaration notwithstanding.

(2) If title to the Unit of such deceased Owner shall pass to any person other than a person or persons designated in Paragraph (1) above, then within ninety (90) days of such person or persons taking title, occupancy or possession of the Unit of the deceased Owner, he shall give the Association the notice required in subparagraph (1) of Paragraph (A) of ARTICLE XIII of this Declaration, but shall not be subject to the provisions of subparagraph (2) of Paragraph (A) of ARTICLE XIII.

(3) Nothing in this Article shall be deemed to reduce, forgive or abate any amounts due the Association from the Unit Owner at the time of his death, nor the assessments attributable to the Unit becoming due after the Unit Owner's death.

(C) MORTGAGES. An Owner who mortgages his Unit must notify the Association of the name and address of his mortgagee, and the Association shall maintain such information in a register which shall, among other things, contain the names of all the Owners of Units and the names of mortgagees holding mortgages on Units. The failure to notify the Association of the existence of a mortgage shall in no way impair the validity of the mortgage. If an Owner mortgages his Unit, he shall not be permitted to modify, alter or change any physical aspect of the Unit without the written authorization of the mortgagee, which authorization shall be in the form commonly required for the recordation of instruments in Monroe County, Florida.

(D) LIENS.

(1) Protection of Property. All liens against a Unit other than for mortgages, taxes or special assessments, shall be satisfied or otherwise removed within thirty (30) days from the date the lien attaches. All taxes and special assessments upon a Unit shall be paid before they become delinquent.

(2) Notice of Lien. A Unit Owner shall give notice to the Association of every lien against his Unit other than mortgages, taxes, and special assessments within five (5) days after the lien has attached.

(3) Notice of Suit. Every Unit Owner shall give notice to the Association of every suit or other proceeding which may effect the title to his Unit, such notice to be given within five (5) days after the Unit Owner receives actual notice thereof.

(4) Failure to comply with this section concerning liens will not affect the validity of any judicial sale.

(E) RIGHTS OF MORTGAGEES. The provisions of this ARTICLE XIII shall in no way be construed as affecting the rights of an Institutional First Mortgagee owning a recorded Institutional First Mortgage on any Unit and the rights hereinabove set forth shall remain subordinate to any such Institutional First Mortgage. Further, the provisions of this Article shall not be applicable to purchasers at foreclosure or other judicial sales of Institutional First Mortgages, or to transfers to or by Institutional First Mortgagees, to the Developer or any corporate grantee of the Developer.

(F) UNAUTHORIZED TRANSACTION. Any sale which is not authorized pursuant to the terms of this Declaration shall be voidable by the Association unless subsequently approved by the Association, which approval shall be in the form specified in subparagraph (2) of paragraph (A) of this ARTICLE XIII.

(G) COMPLIANCE AND DEFAULT. Each Unit Owner shall be governed by and shall comply with the terms of the Condominium Documents. A default shall entitle the Association or other Unit Owners to the following relief:

(1) Legal Proceedings. In addition to the remedies for the foreclosure of a lien as provided for in ARTICLE VII hereof, the Association shall have each and all of the rights and remedies which may be provided for in the Condominium Documents or which may be available at law or in equity, and may prosecute any action or other proceedings against such defaulting Unit Owner and/or others for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or for damages or injunction or specific performance or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. All expenses of the Association in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses and all damages liquidated or otherwise, together with interest thereon at the maximum legal rate shall be charged to and assessed against such defaulting Unit Owner, and the Association shall have a lien for all of the same, as well as for non-payment of his respective share of the common expenses and upon his Unit and upon all of his additions and improvements

thereto and upon all of his personal property in his Unit or located elsewhere on the Condominium Property. In the event of any such default by any Unit Owner, the Association shall have the authority to correct such default, and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner.

(2) Negligence. Each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his neglect or carelessness or by that of any member of his family or his or their guests, employees, agents or lessees. Should the rates for the insurance required to be carried by the Association be increased due to the use, misuse, occupancy or abandonment of a Unit by the Unit Owner, said Owners alone shall be liable to the Association for the increase and such increase shall not be deemed to be a common expense of the Association.

(3) Costs and Attorneys' Fees. In any proceeding arising because of an alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceedings and reasonable attorneys' fees from the other party.

(4) Waiver of Rights. The failure of the Association or of any Unit Owner to enforce the covenants, restrictions or other provisions of the Condominium Documents shall not constitute a waiver of the right to do so thereafter.

ARTICLE XIV

BOAT SLIPS:

(A) OWNERSHIP RIGHTS. The Developer is submitting sixty-four (64) Boat Slips to Condominium ownership. The Developer intends to sell 46 of the said Boat Slips, with the remaining 18 Slips being conveyed as part of the purchase price to purchasers of the two (2), three bedroom Apartments in Building B, and to all purchasers of Apartments in Building C. There shall be attributed to each Boat Slip an undivided share of the Common Elements as set forth in EXHIBIT "2". The Owner of each Boat Slip shall be responsible for the payment of all of those Common Expenses attributable to such Boat Slip in the same manner as the owner of an Apartment Unit is responsible for the payment of those Common Expenses attributable to his Unit. Further, the Owner of each Boat Slip shall be subject to the same assessment, collection and lien procedures as are the Owners of Condominium Units. The ownership of a Boat Slip shall not entitle the owner thereof to vote in the affairs of the Condominium Association, nor shall such ownership increase the vote which a Unit Owner would otherwise have in affairs of the said Association.

(B) BOUNDARIES. Each Boat Slip shall include that area lying within and extending to the center line of each of the two wood mooring piles on either side thereof extending from and parallel to to the wood, shoreline dock, together with the submerged land thereunder and together with an easement for the use of the air space occupied by the Boat Slip as it exists at any particular time, which easement shall be terminated automatically in any air space which is permanently vacated.

(C) INGRESS AND EGRESS. The ownership of each Boat Slip shall include and there shall pass with each Boat Slip as appurtenances thereto, easements through the Common Elements for ingress and egress, to and from the Marina area and the Boat Slips.

(D) TRANSFER AND CONVEYANCE OF BOAT SLIPS. The lease, conveyance and method of transfer of Boat Slips shall be accomplished in the same manner as provided in ARTICLE XIII of this Declaration for the transfer of Apartment Units except that the 18 Boat Slips which are conveyed, as part of the purchase price, to Purchasers of the two (2), three bedroom Apartments in Building B, and to all purchasers of Apartments in Building C, shall at no time, be conveyed separate and apart from said Unit and such Boat Slips shall, upon conveyance of the said Condominium Unit by the Unit Owner, likewise pass to the new Unit Owner; provided, however, that any of said 18 Boat Slips may be leased or rented by the Owners thereof in the same manner as provided in said ARTICLE XIII hereof. All other Boat Slips may be freely leased, transferred or conveyed in accordance with and subject to the provisions of this Declaration.

(E) MAINTENANCE. Each owner of a Boat Slip shall be responsible for maintaining in good condition and repair his Boat Slip and appurtenances thereto. All remaining portions of the Marina Area, not specifically identified and described as a Boat Slip, including without limitation, the wood or concrete dock parallel and adjacent to the shoreline and the wood dock extensions perpendicular thereto, and all electrical outlets servicing said area, if any, shall be maintained, repaired and replaced at the Association's expense. No Boat Slip Owner shall, without first obtaining the prior written approval of the Association, make any alteration or addition in or to any portion of his Boat Slip or of the Condominium Property, or remove any portion thereof, or make any addition thereto, or do any work which would jeopardize the safety and soundness of the Marina Area, any adjoining Boat Slip, the Condominium Property or impair any easement.

(F) RIGHTS OF DEVELOPER. Nothing contained herein shall prevent the Developer from leasing any Boat Slip which it has not sold; in all events, however, the Developer shall be responsible for the payment of the Common Expenses attributable to those Boat Slips owned by it in the same manner as is provided in ARTICLE V for Developer-owned Apartment Units.

ARTICLE XV

AMENDMENT:

(A) DECLARATION OF CONDOMINIUM. Except as herein otherwise provided, amendments to this Declaration shall be adopted as follows:

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

(2) Resolution. A resolution adopting and approving a proposed amendment shall be proposed, adopted and approved by the Board, it must be adopted and approved by the members. Directors and Unit Owners not present at the meeting considering the amendment may approve and adopt same in writing. Such proposals, adoptions and approvals must be by a vote of not less than fifty-one (51%) percent of the Unit Owners entitled to vote, except as to an amendment altering the percentages of ownership in the Common Elements or the voting rights of any of the Owners of the Condominium, any of which shall required the approval of one hundred percent (100%) of the Owners, except as provided for in ARTICLE V herein.

(3) Consent. No amendment shall be made which would affect or in any way alter the extent, nature and priority of the lien and rights of Institutional Mortgages without the consent of all such Institutional Mortgages.

(4) Approval. ARTICLE V of this Declaration of Condominium may not be amended without the written approval and joinder of the Developer.

(5) Recording. A copy of each amendment shall be certified by the officers of the Association as having been duly adopted and shall be duly recorded in compliance with Section 10 of the Condominium Act. The amendment shall become effective when recorded among the Public Records of Monroe County, Florida.

(B) ARTICLES OF INCORPORATION AND BY-LAWS. The Articles of Incorporation and the By-Laws of the Association shall be amended only in the manner provided therein.

(C) PROVISIO. Except as provided in ARTICLE V herein, no amendment shall change any Condominium Unit nor the share of the Common Elements, Common Expenses or Common Surplus attributable to any Unit, nor the voting rights appurtenant to any Unit, unless the record Owner or Owners thereof and all record owners of liens upon such Unit or Units shall join in the execution of such amendments. No amendment or change to this Declaration or to the Articles of Incorporation

or the By-Laws of the Association shall be effective to affect or impair the validity or priority of any mortgage encumbering a Unit without the written consent thereto by all of the mortgagees owning and holding the mortgage or mortgages encumbering the said Unit or Units, which consent shall not be unreasonably withheld and shall be executed with the formalities required for deeds and filed with the aforesaid amendment. The Developer reserves the right, at any time prior to the closing of the sale of the first Condominium Unit under this Declaration of Condominium, to make amendments to the Condominium Documents so long as said amendments do not affect the percentage of ownership in the Common Elements, assessments, voting rights, location or size of any Unit.

ARTICLE XVI

TERMINATION:

The Condominium may be terminated in one of the following manners:

(A) AGREEMENT. The termination of the Condominium may be effected by the unanimous agreement of the Unit Owners and all Institutional Mortgagees, which agreement shall be evidenced by an instrument executed in the same manner as required for the conveyance of the land. The termination shall become effective when such agreement has been recorded in the Public Records of Monroe County, Florida.

(B) DESTRUCTION. In the event it is determined as is elsewhere provided that the Condominium shall not be rebuilt after destruction, the condominium form of ownership shall at such time be terminated.

(C) RIGHTS OF MORTGAGEES. Termination of the Condominium shall in no way impair the rights of Institutional Mortgagees or lienors of the Condominium Units with respect to said Units.

(D) RIGHTS OF DEVELOPER. The Developer shall have the right to terminate this Condominium prior to the conveyance of title to the first Unit, which said termination shall be by the filing of a sworn affidavit pursuant to Florida Statutes.

ARTICLE XVII

SEVERABILITY:

The invalidity of any covenant, restriction or other provisions of any Condominium Documents shall not affect the validity of the remaining portions.

ARTICLE XVIII

TITLES AND SUBTITLES:

All titles, subtitles and other designations contained herein are solely for the purpose of convenience and shall in no event be deemed to affect in any way the contents or the substance contained in this Declaration of Condominium and/or any or all of the Exhibits hereto.

IN WITNESS WHEREOF, the undersigned has hereunto executed this instrument and affixed its corporate seal at Key Largo, Florida, this 28th day of June, 1976.

MOON BAY INC., a Florida corporation

BY: Amos P. Aguilar

PRESIDENT

ATTEST: William J. ...

SECRETARY

STATE OF FLORIDA
COUNTY OF MONROE

Before me the undersigned authority, duly authorized to administer oaths and take acknowledgments, personally appeared Amos P. Aguilar and William J. ... respectively President and Secretary of MOON BAY INC., a Florida corporation, and severally acknowledged to and before me to be the individuals described in and who executed the foregoing instrument as such Officers of said Corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said Corporation and that it was affixed to said instrument by due and regular corporate authority, and that said instrument is the free act and deed of said Corporation.

Witness my hand and official seal, this 28th day of June, 1976.

William J. ...
NOTARY PUBLIC, STATE OF FLORIDA

MY COMMISSION EXPIRES:

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES FEB. 9, 1977
BONDED THRU GENERAL FID. OF \$25,000.00

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REC'D 678 PAGE 427

LEGAL DESCRIPTION
OF
MOON BAY, A CONDOMINIUM

EXHIBIT "1"

LEGAL DESCRIPTION
OF
MOON BAY, A CONDOMINIUM

A portion of Tract 1 and the adjoining 20.00 feet right-of-way of West Dixie Highway, as shown on the Plat of "Baywood Subdivision" according to the Plat thereof as recorded in Plat Book 1, Page 102, of the Public Records of Monroe County, Florida, being more particularly described as follows:

Commence at the intersection of the extended North line of Tract 1 of said Baywood Subdivision said line also being the South line of Tract 4 of "Highland Shores" according to the Plat thereof as recorded in Plat Book 3, Page 39, of the Public Records of Monroe County, Florida, with the Northwesterly right-of-way line of State Road No. 5 (U.S. 1) said Point being the Point of Beginning of the herein described parcel; thence run South 37° 30' 00" West along said Northwesterly right-of-way for 210.00'; thence run North 52° 30' 00" West for 269.51' more or less to an intersection with the North line of Tract 1 of said "Baywood Subdivision"; thence run North 69° 34' 30" East along said Northline for 341.67 feet to the Point of Beginning.

Tract 4 of "Highland Shores" according to the Plat thereof, as recorded in Plat Book 3, Page 39, of the Public Records of Monroe County, Florida.

A parcel of submerged land in Blackwater Sound, in Section 11, Township 61 South, Range 39 East, Key Largo, Monroe County, Florida, being more particularly described as follows:

Commence at the intersection of the dividing line between Tracts 3 and 4 of "Highland Shores" according to the Plat thereof as recorded in Plat Book 3, Page 39, of the Public Records of Monroe County, Florida, and the Northwesterly right-of-way of State Road No. 5 (Overseas Highway or (U.S.1) as shown on said Plat of "Highland Shores", thence run South 89° 29' 52" West along the dividing line between Tracts 3 and 4 of said Plat of "Highland Shores" for 573.8 feet to the mean high tide line on the Northeasterly shore of said Blackwater Sound, said Point being the Point of Beginning of the herein described parcel; thence run North 54° 50' 20" West for 227.86' feet; thence run South 26° 04' 10" West for 262.05 feet; thence run South 62° 02' 50" East for 238.34 feet to said mean high tide line; thence run Northeasterly, meandering said mean high tide line for 273.4 feet to the Point of Beginning.

EXHIBIT "1"

SCHEDULE OF PERCENTAGE OF OWNERSHIP
IN COMMON ELEMENTS, COMMON EXPENSE
AND COMMON SURPLUS OF MOON BAY, A
CONDOMINIUM

SCHEDULE OF PERCENTAGE OF INTEREST
IN COMMON ELEMENTS, COMMON EXPENSE
AND COMMON SURPLUS OF MOON BAY, A
CONDOMINIUM

<u>Building "A"</u>	<u>Building "B"</u>	<u>Building "C"</u>
A 201 = .9013015	B 101 = .8987970	C 1 = 1.0396993
A 202 = .9013015	B 102 = .8987970	C 2 = 1.0396993
A 203 = .9013015	B 103 = .8987970	C 3 = 1.0396993
A 204 = .9013015	B 105 = 1.1766400	C 4 = 1.0396993
A 205 = .9013015	B 106 = 1.1766400	C 5 = 1.0396993
A 206 = .9013015	B 107 = 1.1766400	C 6 = 1.0396993
A 207 = .9013015	B 201 = .8987970	C 7 = 1.0396993
A 208 = .9013015	B 202 = .8987970	C 8 = 1.0396993
A 209 = .9013015	B 203 = .8987970	C 9 = 1.0396993
A 210 = .9013015	B 204 = .8987970	C 10 = 1.0396993
A 301 = .9013015	B 205 = .8987970	C 11 = 1.0396993
A 302 = .9013015	B 206 = .8987970	C 12 = 1.0396993
A 303 = .9013015	B 207 = .8987970	C 13 = 1.0396993
A 304 = .9013015	B 301 = .8987970	C 14 = 1.0396993
A 305 = .9013015	B 302 = .8987970	C 15 = 1.0396993
A 306 = .9013015	B 303 = .8987970	C 16 = 1.0396993
A 307 = .9013015	B 304 = .8987970	
A 308 = .9013015	B 305 = .8987970	
A 309 = .9013015	B 306 = .8987970	
A 310 = .9013015	B 307 = .8987970	
A 401 = .9013015	B 401 = .8987970	
A 402 = .9013015	B 402 = .8987970	
A 403 = .9013015	B 403 = .8987970	
A 404 = .9013015	B 404 = .8987970	
A 405 = .9013015	B 405 = .8987970	
A 406 = .9013015	B 406 = .8987970	
A 407 = .9013015	B 407 = .8987970	
A 408 = .9013015	B 503 = 1.3019924	
A 409 = .9013015	Penthouse	
A 410 = .9013015	B 505 = 1.3019924	
A 501 = .9013015	Penthouse	
A 502 = .9013015		
A 503 = .9013015		
A 504 = .9013015		
A 505 = .9013015		
A 506 = .9013015		
A 507 = .9013015		
A 508 = .9013015		
A 509 = .9013015		
A 510 = .9013015		

Boat Slips

1 = .3063706	17 = .3063706	33 = .3063706	49 = .3063706
2 = .3063706	18 = .3063706	34 = .3063706	50 = .3063706
3 = .3063706	19 = .3063706	35 = .3063706	51 = .3063706
4 = .3063706	20 = .3063706	36 = .3063706	52 = .3063706
5 = .3063706	21 = .3063706	37 = .3063706	53 = .3063706
6 = .3063706	22 = .3063706	38 = .3063706	54 = .3063706
7 = .3063706	23 = .3063706	39 = .3063706	55 = .3063706
8 = .3063706	24 = .3063706	40 = .3063706	56 = .3063706
9 = .3063706	25 = .3063706	41 = .3063706	57 = .3063706
10 = .3063706	26 = .3063706	42 = .3063706	58 = .3063706
11 = .3063706	27 = .3063706	43 = .3063706	59 = .3063706
12 = .3063706	28 = .3063706	44 = .3063706	60 = .3063706
13 = .3063706	29 = .3063706	45 = .3063706	61 = .3063706
14 = .3063706	30 = .3063706	46 = .3063706	62 = .3063706
15 = .3063706	31 = .3063706	47 = .3063706	63 = .3063706
16 = .3063706	32 = .3063706	48 = .3063706	64 = .3063706
<u>TOTAL 100.00</u>			

EXHIBIT "2"

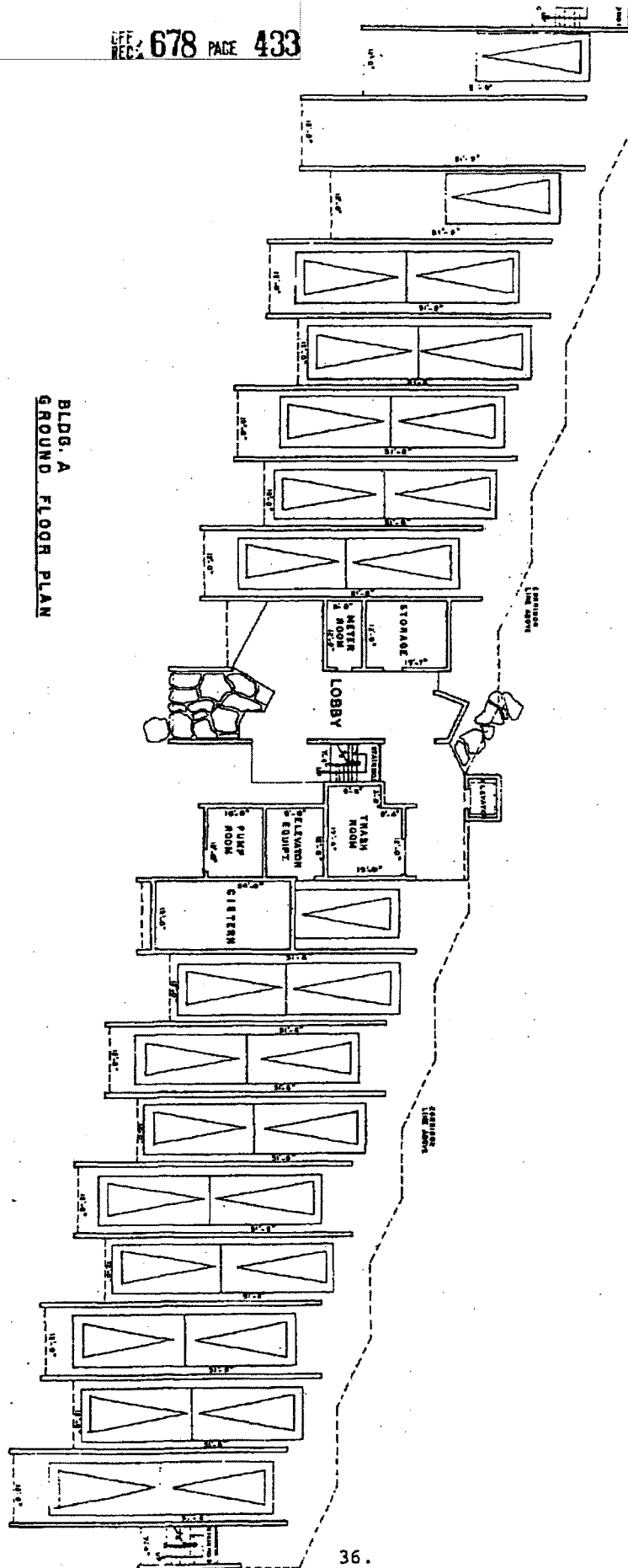
OFF
REC 678 PAGE 431

PLOT PLAN, SURVEY AND
GRAPHIC DESCRIPTION

OF MOON BAY, A CONDOMINIUM

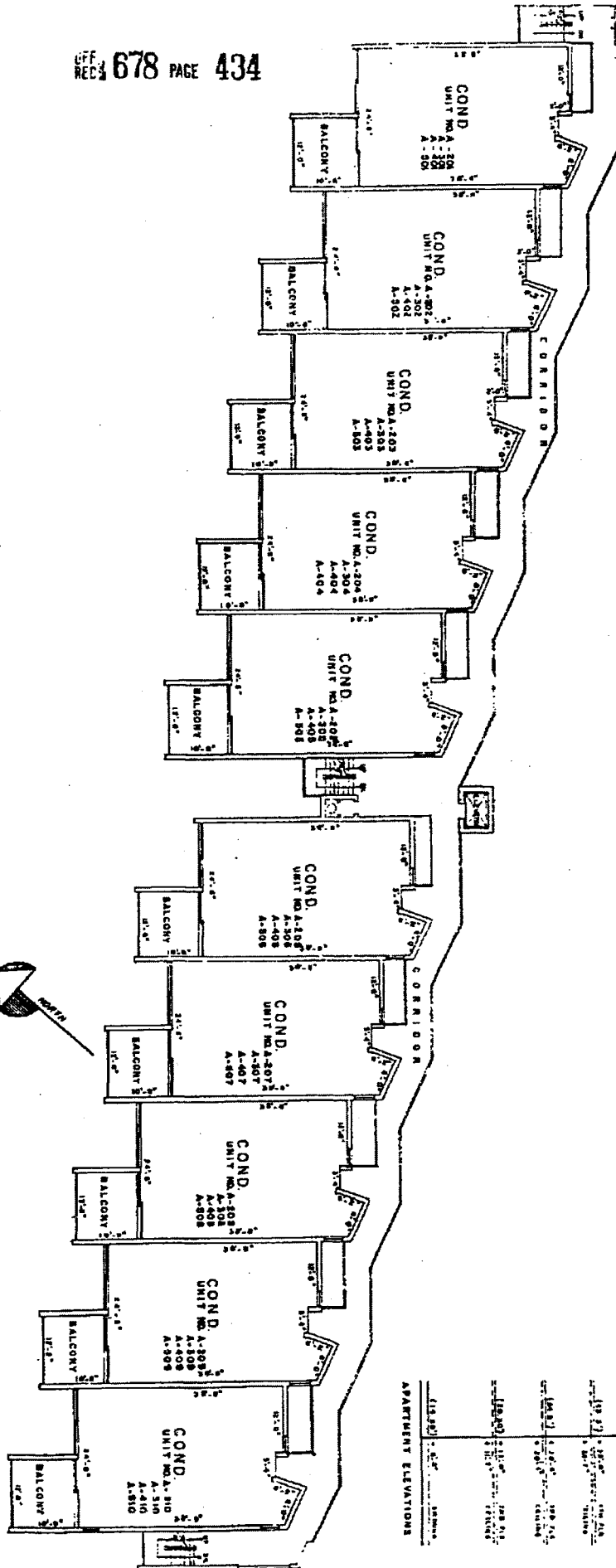
EXHIBIT "3"

BLDG. A
GROUND FLOOR PLAN



BLDG A
FLOOR PLAN

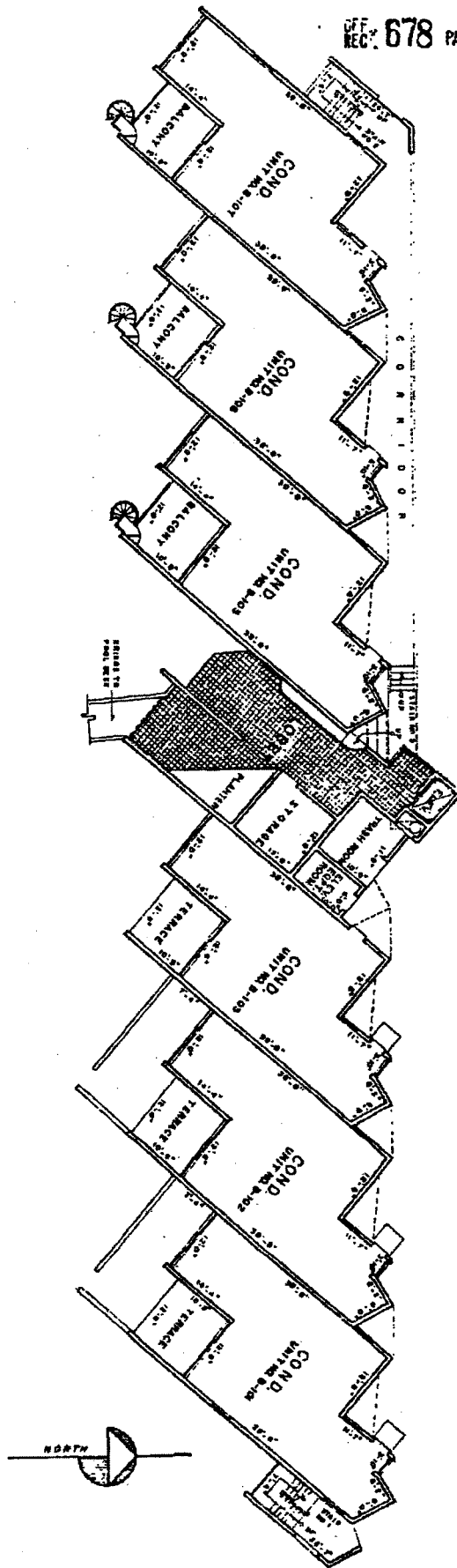
1/8"=1'-0"



APARTMENT ELEVATIONS

11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'
11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'
11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'
11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'
11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'
11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'
11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'
11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'
11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'
11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'	11.25'

BLDG. B
GROUND FLOOR PLAN

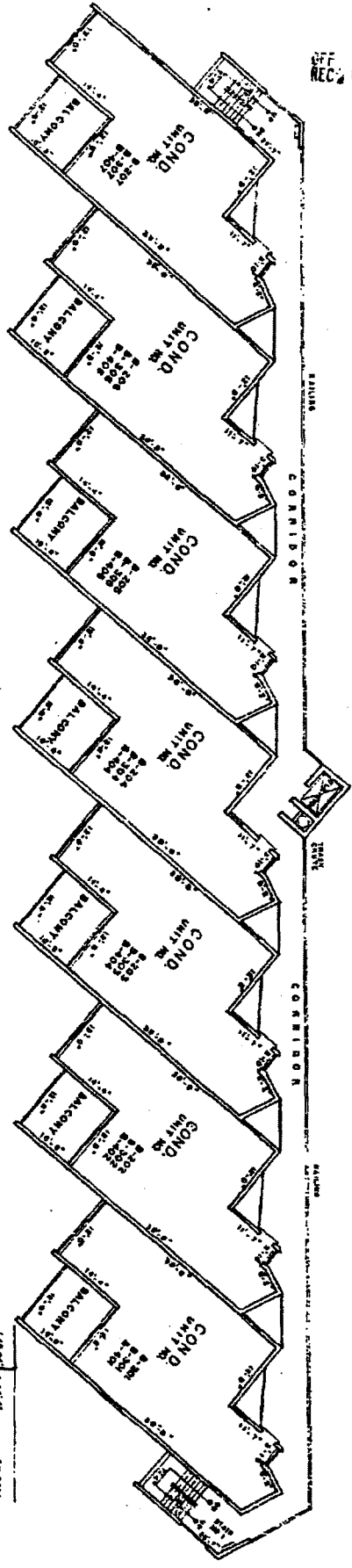




503

BUILDING B FLOOR PLAN

1/8"=1'-0"



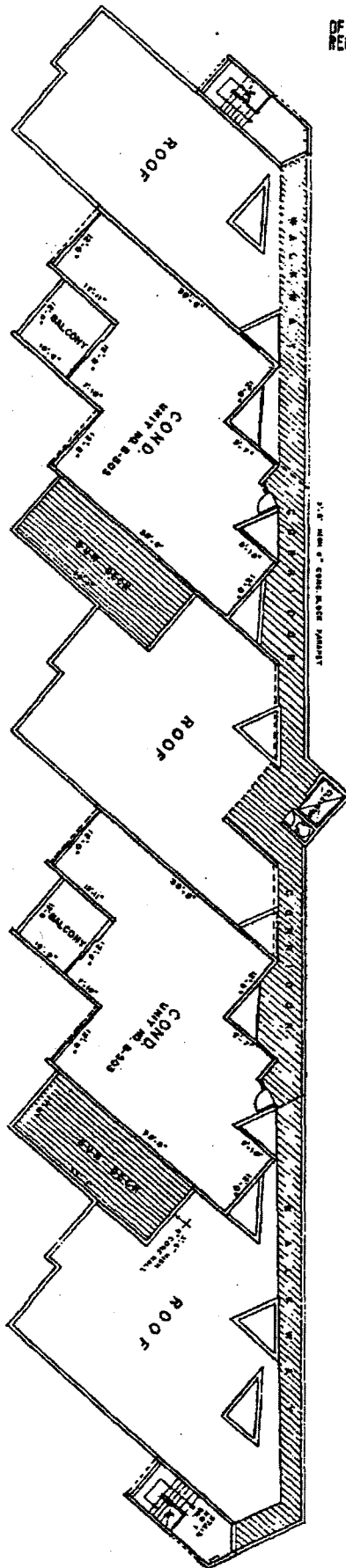
1001	1002	1003	1004	1005	1006
1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.
1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.
1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.
1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.
1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.	1,450 sq. ft.

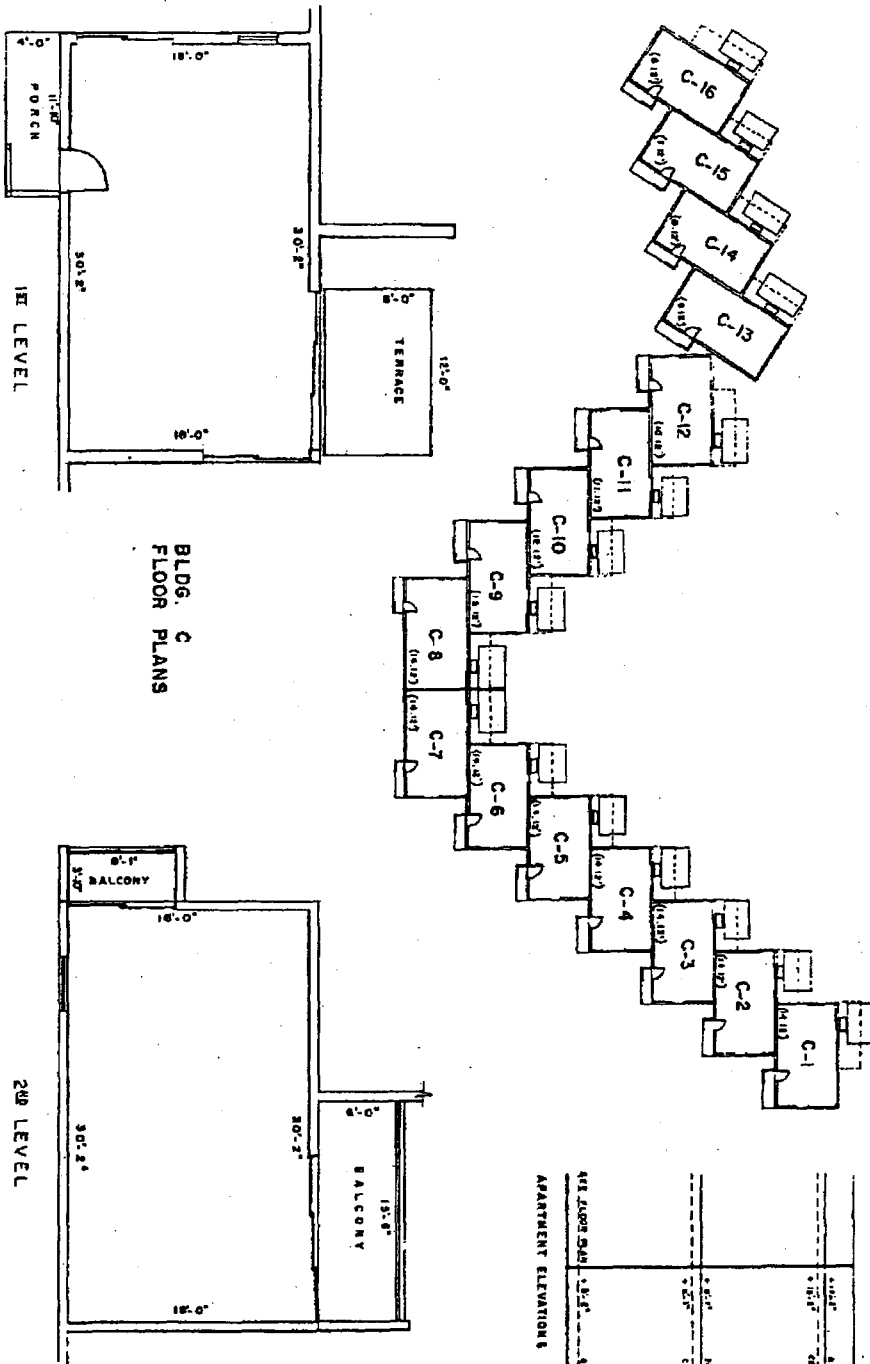
APARTMENT ELEVATIONS

James H. ...

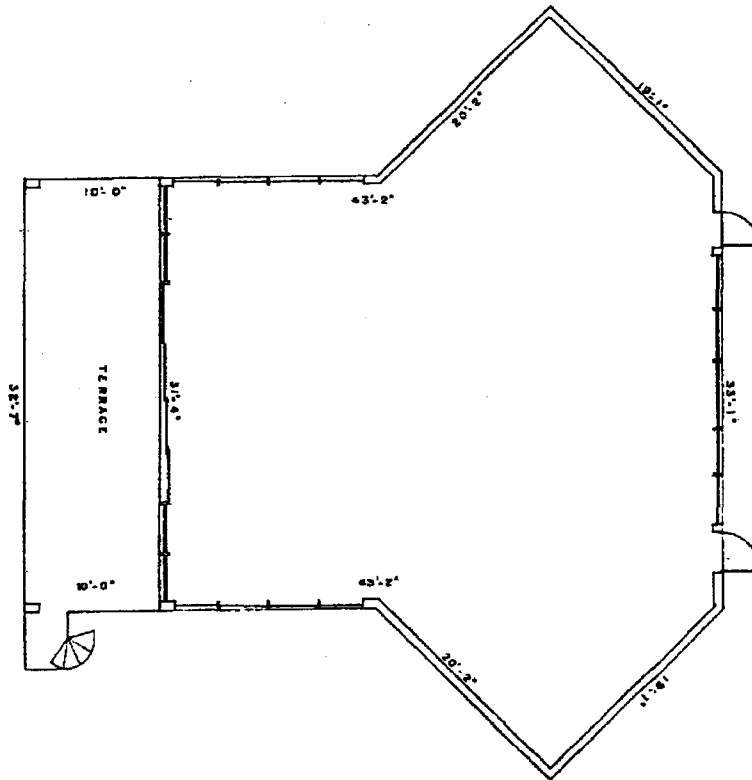
BLDG. B
PENTHOUSE B ROOF PLAN

1/8"=1'-0"





RECREATION BUILDING
FLOOR PLAN
1/4" = 1'-0"



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ARTICLES OF INCORPORATION OF

SEA BAY, A CONDOMINIUM

EXHIBIT "4"

ARTICLES OF INCORPORATION
OF
MOON BAY CONDOMINIUM ASSOCIATION, INC.
a Florida corporation not for profit

ARTICLE I

The name of the Corporation is MOON BAY CONDOMINIUM, INC.

ARTICLE II

This Corporation is incorporated as a corporation not for profit under the provisions of Chapter 607 and 617, Florida Statutes, as amended.

ARTICLE III

The principal office and post office address of the Corporation shall be Rte. 3, Box 279, Key Largo, Florida 33037.

ARTICLE IV

The street address of the registered office of this Corporation is 900 Dade Federal Building, 101 East Flagler Street, Miami, Florida 33131 and the name of the registered agent of this Corporation at that address is BISCAYNE CREDIT, INC., a Florida corporation.

ARTICLE V

The purpose for which this Corporation is organized is to act on behalf of its members collectively as their governing body with respect to the administration, maintenance, repair and replacement of certain property, hereafter called "The Property" and legally described as:

Please see EXHIBIT "A" attached hereto and made a part hereof.

which has been or will be submitted to the provisions of the Condominium Act of the State of Florida to be known as MOON BAY, A CONDOMINIUM, and as such to own and acquire any real estate or interest or rights therein appurtenant thereto and any and all personal property in connection therewith as may be incidental or necessary to such purpose, all on a not for profit basis.

ARTICLE VI

The term for which this Corporation is to exist is perpetual unless the Condominium is terminated pursuant to the provisions of the Declaration of Condominium of MOON BAY, A CONDOMINIUM, or pursuant to the relevant provisions of the Florida Statutes. Any such dissolution will be pursuant to the terms of the Declaration of Condominium.

ARTICLE VII

The members of this Corporation shall consist of all of the record owners of the Condominium Units in the Condominium. Until the recording of the Declaration of Condominium submitting the property to condominium ownership, the members shall consist of the incorporators. The Owner of a Condominium Unit in the Condominium shall automatically be and become a member of this Corporation. The share of a Member in the funds and assets of this Corporation cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Condominium Unit. Membership shall likewise automatically terminate upon sale or transfer of the Unit, whether voluntarily or involuntarily. There shall be one person with respect to each Unit Ownership who shall be entitled to vote at any meeting of the Association. Such person shall be known (and is hereinafter referred to) as a "Voting Member". If a Unit is owned by more than one person, the Owners of said Unit shall designate one of them as the Voting Member, or in the case of a Corporate Unit Owner, an officer or employee thereof shall be the Voting Member. The designation of the Voting Member shall be made as provided by and subject to the provisions and restrictions set forth in the Declaration of Condominium of the Association. A vote of a Condominium Unit is not divisible. An Owner of a Boat Slip who is not the Owner of an Apartment Unit shall not be entitled to vote in the affairs of the Condominium Association, nor shall ownership of a Boat Slip increase the vote which a Unit Owner would otherwise have in such affairs of said Association.

ARTICLE VIII

The affairs of the Corporation shall be governed by a Board of Directors which Board will consist of not less than three (3) nor more than fifteen (15) persons. With the exception of the initial Board, Directors shall be elected from among the Unit Owners; or if a Unit Owner shall be a corporation, partnership or trust, then an officer, partner or beneficiary of such Unit Owner shall be qualified to be a Director. The Board of Directors shall have all the powers and duties necessary for the administration of the affairs of the Corporation and shall have all the powers and duties referred to in the Declaration and in the Statutes of the State of Florida respecting corporations not for profit, and all of the powers defined and set forth in the Condominium Act of the State of Florida which the Unit Owners collectively may do or may have done. The powers of the Board of Directors shall include, but shall not be limited to the following:

- (A) To elect the officers of the Corporation;
- (B) To administer the affairs of the Corporation and the Property;
- (C) To engage the services of a manager or managing agent for the Property and to fix the terms of such engagement and the compensation and authority of the manager or managing agent;
- (D) To promulgate such rules and regulations concerning the operation and use of the Property or the Common Elements as may be consistent with the Declaration and these Articles of Incorporation and to amend the same from time to time;

(E) To provide for the maintenance, repair and replacement of the Common Elements and authorize leases with respect thereto; and

(F) To estimate and adopt an annual operating budget and to provide for the assessment and collection from the Unit Owners of their respective shares of the estimated expenses as hereinafter provided.

No power may be exercised by the Board of Directors to the extent it is inconsistent with the Declaration of Condominium, By-Laws of the Corporation, other Condominium documents and the Laws of the State of Florida.

ARTICLE IX

The initial Board of Directors of the Corporation shall consist of the following persons, each of whom shall serve until December 31, 1979:

RALPH M. CARESTIO, JR.
LESLIE J. TRZUSKOSKI
DUDLEY N. HARTT, JR.
JOHN S. SWART

Notwithstanding anything to the contrary herein contained in this Article IX, it is understood that the corporation developing the property known as MOON BAY CONDOMINIUM, said Corporation being MOON BAY INC., and its principals, are limited by Statute and will be limited hereunder as to their rights of election as Developer, of the members of the Board of Directors of this Corporation. Said Developer is hereby given the right to elect a majority of the members of the Board of Directors of MOON BAY CONDOMINIUM ASSOCIATION, INC., until such time as three (3) years after sales by the Developer have been closed on fifty (50%) per cent of the Units that will be operated ultimately by the Association; or three (3) months after sales have been closed by the Developer on ninety (90%) percent of the Units that will be operated ultimately by the Association; or when all of the Units that will be operated ultimately by the Association have been completed and some have been sold and none of the others are being offered for sale by the Developer in the ordinary course of business, whichever shall occur first. The Developer shall be entitled to elect not less than one (1) member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business any Units in the Condominium provided that such right may be waived by the Developer at its sole option. For purposes of this Paragraph, Developer shall mean, Developer, its successors and/or assigns.

At the expiration of the initial term of the office of each of the said respective directors, his successor shall be elected to serve until the next annual meeting of members and the election and qualification of their successors. Directors shall hold office until their successors have been elected and qualified. Vacancies in the Board of Directors may be filled by the remaining Directors and the Director so elected by the remaining Directors shall serve until the next annual meeting or special meeting of the members of the Corporation.

Annual meetings of the Board of Directors shall be held immediately following and at the same place as the annual meeting of the members of the Corporation. Special meetings of the Board of Directors may be called by the President or by a majority of the Board of Directors on the giving of not less than ten (10) days notice to each Director by mail or telegraph. Directors may, by a written waiver, waive notice of a meeting or consent to or take any

action without a formal meeting. At any meeting of the Board of Directors, a majority of the Board of Directors shall constitute a quorum for the transaction of business and any action may be taken by a majority of those present.

Directors may be removed from office by a vote of a majority of the voting interests of the Corporation, except that the members of the initial Board of Directors may not be so removed.

Directors shall receive no compensation for their services except as expressly provided by resolution duly adopted by the Members.

The Board shall have no authority to approve or authorize any capital expenditure in excess of Two Thousand Five Hundred Dollars (\$2,500.00) nor to authorize the Corporation to enter into any contract for a term of more than one (1) year (except with the approval of a majority of the voting interests of the Corporation, nor to levy any special assessment in excess of Two Hundred Fifty Dollars (\$250.00) per Unit per year without the approval of Seventy-five (75%) per cent of the Unit Owners.

ARTICLE X

The officers of the Corporation shall be a President, one or more Vice Presidents, a Secretary, a Treasurer, and such assistants to such officers as the Board may deem appropriate, which officers shall be elected at the first meeting of the initial Board of Directors, and at each annual meeting of the Board of Directors and shall hold office until their successors are elected or until they are otherwise removed.

Any officer may be removed at any meeting by the affirmative vote of a majority of the Members of the Board of Directors, either with or without cause, and any vacancy in any office may be filled by the Board at any meeting thereof.

Each respective officer of the Corporation shall have such powers and duties as are usually vested in such officer of a corporation not for profit, including but not limited to the following:

(A) The President shall be a Director and shall be the Chief Executive Officer of the Corporation and shall preside at all meetings of the Members and of the Board of Directors.

(B) The Vice President shall, in the absence or disability of the President, perform the duties and exercise the powers of such office.

(C) The Secretary shall keep Minutes of all meetings of the Members and of the Board of Directors and shall have custody of the Corporation seal and have charge of the membership transfer books and such other books, papers and documents as the Board of Directors may prescribe.

(D) The Treasurer shall be responsible for Corporation funds and securities and for keeping full and accurate accounts of all receipts and disbursements in Corporation books of account for such purpose.

The officers shall receive no compensation for their services except as expressly provided by a resolution duly adopted by the Members.

The initial officers of the Corporation shall be the following:

RALPH M. CARESTIO, JR.	President
LESLIE J. TRZUSKOSKI	Vice President
DUDLEY N. HARTT, JR.	Secretary
JOHN S. SWART	Treasurer

ARTICLE XI

The initial By-Laws of this Corporation are those annexed to the Declaration of Condominium to be made by MOON BAY, INC., a corporation authorized to transact business in the State of Florida, the Developer of the Condominium, and to be recorded among the Public Records of Monroe County, Florida, which said Declaration will cover the real property described in EXHIBIT "A" attached hereto and made a part hereof. Such By-Laws, subject to the provisions herein and therein contained, may be altered, amended, or added to in the manner provided for in said initial By-Laws or any subsequent By-Laws.

ARTICLE XII

These Articles of Incorporation may be altered, amended, changed, added to or repealed, in the manner now or hereafter prescribed by statute, or herein or by the By-Laws of this Corporation as they exist from time to time or the said Declaration of Condominium, at any duly called meeting of the Members of this Corporation provided that notice of the meeting is given in the manner provided for in the Articles of Incorporation and By-Laws of this Corporation, and that the notice contain a full statement of the proposed alteration, amendment, change, addition or repeal of any provision of these Articles, and that at such meeting there is an affirmative vote of two-thirds (2/3) of the voting interests present in person or by proxy in favor of said alteration, amendment, change, addition or repeal, but in no event shall these Articles of Incorporation be altered, amended, changed, added to or repealed to impair, amend, rescind, cancel or conflict with any contract or document entered into by the Corporation and which document or instrument is made a part of or referred to in these Articles of Incorporation except with the consent in writing of the contracting party.

ARTICLE XIII

The Corporation shall not have or issue shares of stock. No dividend shall be paid, and no part of the income of the Corporation shall be distributed to its Members, Directors or Officers. The Corporation may pay compensation in a reasonable amount to its Members, Directors and Officers for services rendered, may confer benefits upon its Members in conformity with its purposes, and upon dissolution or final liquidation may make distributions to its Members, and no such payment, benefit or distribution shall be deemed to be a dividend or a distribution of income.

ARTICLE XIV

In the event of the termination of said Condominium under the provisions of Chapter 711, Florida Statutes, as amended from time to time, or pursuant to the aforesaid Declaration of Condominium, the distributive share to each Unit Owner shall be determined in accordance with the provisions of said Declaration of Condominium.

ARTICLE XV

The Corporation shall maintain accounting records according to good accounting practices which shall be open to inspection by unit owners at reasonable times, and written summaries of which shall be supplied at least annually to unit owners. Such records shall include:

- (A) A record of all receipts and expenditures.
- (B) An account for each unit which shall designate the name and address of the unit owner, the amount of each assessment, the dates and amounts in which the assessments come due, the amounts paid upon the account and the balance due.

ARTICLE XV

The Corporation shall have all the powers listed below together with those powers conferred by the aforesaid Declaration of Condominium, the Articles of Incorporation, and any and all lawful By-Laws of the Corporation.

- (A) Have succession by its corporate name for the period set forth in its Articles of Incorporation.
- (B) Sue and be sued and appear and defend in all actions and proceedings in its corporate name to the same extent as a natural person.
- (C) Adopt and use a common corporate seal and alter the same; provided, however, that such seal shall always contain the words "corporation not for profit."
- (D) Elect or appoint such officers and agents as its affairs shall require and allow them reasonable compensation.
- (E) Adopt, change, amend and repeal By-Laws, not inconsistent with law or its Articles of Incorporation, for the administration of the affairs of the corporation and the exercise of its corporate powers.
- (F) Increase, by a vote of its members cast as the By-Laws may direct, the number of its directors, managers or trustees so that the number shall not be less than three (3) but not more than fifteen (15).
- (G) Make contracts and incur liabilities, borrow money at such rates of interest as the Corporation may determine, issue its notes, bonds and other obligations, and secure any of its obligations by mortgage and pledge of all or any of its property, franchises or income.
- (H) Conduct its affairs, carry on its operations, and have offices and exercise the powers granted by part I of this chapter in any state, territory, district, or possession of the United States or any foreign country.
- (I) Purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use or otherwise deal in and with real or personal property, or any interest therein, wherever situated.

(J) Acquire, enjoy, utilize and dispose of patents, copyrights and trademarks and any licenses and other rights or interests thereunder or therein.

(K) Sell, convey, mortgage, pledge, lease, exchange, transfer or otherwise dispose of all or any part of its property and assets.

(L) Purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge or otherwise dispose of and otherwise use and deal in and with, shares and other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district, municipality, or of any instrumentality thereof.

(M) Lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(N) Make donations for the public welfare or for religious, charitable, scientific, educational or other similar purposes.

(O) Have and exercise all powers necessary or convenient to effect any or all of the purposes for which the Corporation is organized.

The aforesaid powers are those powers which a Corporation not for profit may have under Chapter 607 and 617, Florida Statutes, as amended. Any amendment or amendments to the aforesaid statute are hereby incorporated by reference into these Articles of Incorporation as of the effective date or dates of such amendment or amendments. In addition, this Corporation shall have the right and the power to enter into agreements whereby it contracts with third parties for management of the Condominium Property, and to delegate to such third party as a manager of all powers and duties of the Corporation which according to the laws of the State of Florida may be so delegated.

Neither the Condominium Association nor any member thereof shall have the right to exercise any power which is in conflict with the Declaration of Condominium or those laws of the State of Florida which are applicable to condominiums and corporations not for profit.

ARTICLE XVII

Each Director and officer of this Corporation shall be indemnified by the Corporation against all costs and expenses reasonably incurred or imposed upon him in connection with or arising out of any action, suit or proceedings in which he may be involved or to which he may be made a party by reason of his having been a Director or officer of this Corporation, such expense to include the cost of reasonable settlements (other than amounts paid to the Corporation itself) made with a view of curtailment of costs and litigation. The Corporation shall not, however, indemnify such Director or officer with respect to matters as to which he shall be finally adjudged in any action, suit or proceedings to be liable for negligence or

misconduct in the performance of his duty as such Director or officer, or in respect to any matter in which any settlement or compromise is effected if the total expense, including the cost of such settlement, shall substantially exceed the expense which might reasonably be incurred by such Director or officer in conducting such litigation to final conclusion, and in no event shall anything herein contained be construed as authorizing this Corporation to indemnify any such Director or officer against any liability of the Corporation to which he would otherwise be subject by reason of willful malfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office. The foregoing right of indemnification shall be in addition to any other rights to which any such Director or officer may be entitled as a matter of law or otherwise, and may be effected by the Corporation through the purchase of officers' and directors' liability insurance.

ARTICLE XVIII

When words or phrases relating to the Condominium to be created under said Declaration of Condominium are used herein or in the By-Laws of this Corporation, the meaning thereof shall be determined by the definitions and constructions placed thereon by or under Chapter 711, Florida Statutes, as amended.

ARTICLE XIX

The names and addresses of the subscribers and promoters of this Corporation are as follows:

RALPH M. CARESTIO, JR.	29 Ruth Drive Wilbraham, Mass. 01095
LESLIE J. TRZUSKOSKI	54 Garfield Street Springfield, Mass. 01108
DUDLEY N. HARTT, JR.	Meetinghouse Lane Wilbraham, Mass. 01095
JOHN S. SWART	1053 Frank Smith Road Longmeadow, Mass. 01106

WE, THE UNDERSIGNED, being each of the incorporators hereinabove named, for the purpose of forming a Corporation not for profit pursuant to Chapters 607 and 617, Florida Statutes, do hereby subscribe to these Articles of Incorporation, and have hereunto set our hands and seals this ____ day of _____, 1976.

RALPH M. CARESTIO, JR. (SEAL)

LESLIE J. TRZUSKOSKI (SEAL)

DUDLEY N. HARTT, JR. (SEAL)

JOHN S. SWART (SEAL)

STATE OF FLORIDA
COUNTY OF

BEFORE ME, the undersigned authority, this day personally appeared RALPH M. CARESTIO, JR., who after being duly sworn according to law, deposes and says that he is competent to contract and further acknowledges that he did subscribe to the foregoing Articles of Incorporation freely and voluntarily for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at _____, County of _____ and State of Florida, this ____ day of _____, 1976.

Notary Public

My commission expires:

STATE OF FLORIDA
COUNTY OF

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BEFORE ME, the undersigned authority, personally appeared LESLIE J. TRZUSKOSKI, who after first being duly sworn according to law, deposes and says that he is competent to contract and further acknowledges that he did subscribe to the foregoing Articles of Incorporation freely and voluntarily for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____, County of _____, State of Florida, this _____ day of _____, 1976.

Notary Public

My commission expires:

STATE OF FLORIDA
COUNTY OF

BEFORE ME, the undersigned authority, personally appeared DUDLEY N. HARTT, JR., who after being duly sworn according to law, deposes and says that he is competent to contract and further acknowledges that he did subscribe to the foregoing Articles of Incorporation freely and voluntarily for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at _____, County of _____, and State of Florida, this _____, day of _____, 1976.

Notary Public

My commission expires:

STATE OF FLORIDA
COUNTY OF

BEFORE ME, the undersigned authority, personally appeared JOHN S. SWART, who after being duly sworn according to law, deposes and says that he is competent to contract and further acknowledges that he did subscribe to the foregoing Articles of Incorporation freely and voluntarily for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____ County of _____ State of Florida, this _____ day of _____, 1976.

Notary Public

My commission expires:

CERTIFICATE DESIGNATING REGISTERED AGENT AND STREET ADDRESS
OF REGISTERED OFFICE FOR THE SERVICE OF PROCESS WITHIN THIS
STATE; ACCEPTANCE BY AGENT.

The following is submitted, in compliance with
Florida Statutes, §48.019.

MOON BAY CONDOMINIUM ASSOCIATION, INC., desiring
to organize as a corporation under the laws of the State of
Florida with its registered office as indicated in the
Articles of Incorporation, in the City of Miami, County of
Dade, State of Florida, has named BISCAYNE CREDIT, INC.,
located at Suite 900 Dade Federal Building, 101 East Flagler
Street, Miami, County of Dade, State of Florida, as its
registered agent to accept service of process within this
state at said address.

ACKNOWLEDGMENT:

Having been named to accept service of process for
the above stated corporation, at the place designated in this
certificate, I hereby accept to act in this capacity and agree
to comply with the provision of said Act relative to keeping
open said office.

BISCAYNE CREDIT, INC., a Florida
corporation,

By: _____

Registered Agent

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BY-LAWS OF HOON BAY,

A CONDOMINIUM

EXHIBIT "5"

BY-LAWS

OF

MOON BAY CONDOMINIUM ASSOCIATION, INC.

Article I

1) The name of this corporation is MOON BAY CONDOMINIUM ASSOCIATION, INC.

2) The principal office of the corporation is at Rte. e, B0x 279, Key Largo, Florida 33037.

Article II - Purposes

This corporation is organized for the purpose of being a condominium association within the meaning of the Condominium Act of the State of Florida, and in turn for the purpose of operating, governing, administering and managing the property and affairs of the Condominium, to wit: MOON BAY CONDOMINIUM, and to exercise all powers granted to it as a corporation under the laws of Florida, these By-Laws, the Articles of Incorporation and the Declaration of Condominium in which these By-Laws are attached, and further to exercise all powers granted to a condominium association under the Condominium Act, and to acquire, hold, convey and otherwise deal in and with real and personal property in its capacity as a condominium association.

Article III - Directors and Officers

A) Directors

1) The affairs of the corporation shall be managed by a Board of Directors, composed of not less than three (3) nor more than fifteen (15) persons.

2) Directors shall be elected by the members at the annual meeting of members and shall hold office until their successors are elected and shall qualify (except as to the first Board of Directors, whose members are designated in the Articles of Incorporation, and who shall serve until December 31, 1979).

At least ten (10) days before the annual meeting, a complete list of members entitled to vote at such election, together with the residence of each, shall be prepared by the Secretary. Such list shall be open at the office of the corporation for ten (10) days prior to the election for the examination of every member and shall be produced and kept at the time and place of election, subject to the inspection of any member who may be present.

Except as otherwise provided in this subparagraph 2, at the first annual meeting of the members, Directors shall be elected for a term of one (1) year.

Directors shall be elected as follows:

Nominations shall be from the floor at the annual membership meeting, and a vote shall be had by written ballot. There shall be no cumulative voting. All of the Directors shall be elected at the same meeting.

Directors shall be members of the Corporation except that this provision shall not apply to the persons designated to be the first Board of Directors by ARTICLE IX of the Articles of Incorporation.

No director shall receive or be entitled to any compensation for his services as director, but shall be entitled to reimbursement for all reasonable expenses sustained by him as such, if incurred upon the authorization of the Board.

Notwithstanding anything to the contrary herein contained in Article III(A) set forth herein above, it is understood that the corporation developing the property known as MOON BAY CONDOMINIUM, said corporation being MOON BAY, INC. and its principals, are limited by Statute and will be limited hereunder as to their rights of election as Developer of the members of the Board of Directors of this Corporation. Said Developer is given the right hereby to elect a majority of the members of the Board of Directors of MOON BAY CONDOMINIUM ASSOCIATION, INC. until such time as three (3) years after sales by the Developer have been closed on fifty percent (50%) of the Units that will be operated ultimately by the Association; or three (3) months after sales have been closed by the Developer on ninety percent (90%) of the Units that will be operated ultimately by the Association; or when all of the Units that will be operated ultimately by the Association have been completed and some have been sold and none of the others are being offered for sale by the Developer in the ordinary course of business, whichever shall occur first. The Developer shall be entitled to elect not less than one (1) member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business any Units in the Condominium provided that such right may be waived by the Developer at its sole option.

B) Officers

The officers of the corporation shall be: a President, a Vice-President, a Secretary and a Treasurer who shall be members of the Board of Directors, and such other officers as the Board of Directors may appoint. The officers named in the Articles of Incorporation shall serve until the first regular meeting of the Board, and at such meeting the Board shall elect the aforesaid officers. Officers elected at the first meeting of the Board shall hold office until the next ensuing meeting of Directors following the next succeeding annual meeting of members or until their successors shall have been elected and shall qualify.

C) Resignation, Vacancy, Removal

Any director or officer of the corporation may resign at any time, by instrument in writing. Resignations shall take effect at the time specified therein, and if no time is specified, at the time of receipt by the president or secretary of the corporation. The acceptance of a resignation shall not be necessary to make it effective.

When a vacancy occurs on the Board, the vacancy shall be filled by the remaining members of the Board at their next meeting, by electing a person who shall serve until the next annual meeting of members, at which time a director will be elected to complete the remaining portion of the unexpired term.

When a vacancy occurs in an office for any cause before an officer's term has expired, the office shall be filled by the Board at its next meeting by electing a person to serve for the unexpired term or until a successor has been elected by the Board and shall qualify.

A majority of members of the corporation present at any regular or special meeting duly called, may remove any director or officer for cause.

D) Executive Committee

The Board of Directors may, by resolution passed by a majority of the whole Board, designate an Executive Committee, to consist of two or more members of the Board, which, to the extent provided in the resolution, shall have and exercise the powers of the Board of Directors in the management of the business and affairs of the corporation, and may have power to authorize the seal of the corporation to be affixed to all papers which may require it. The Executive Committee shall keep regular minutes of its proceedings and report the same to the Board when required.

Article IV - Powers and Duties of the Corporation and the Exercise Thereof

The corporation shall have all powers granted to it by law, the Declaration of Condominium to which these By-Laws are attached, the Condominium Act, as the same may be amended from time to time, and the Articles of Incorporation, all of which powers shall be exercised by its Board of Directors unless the exercise thereof is otherwise restricted in the Declaration of Condominium, these By-Laws, or by law; and the aforementioned powers of the corporation shall include but not be limited to the following:

- 1) All of the powers specifically provided for in the Declaration and the Condominium Act.
- 2) The power to levy and collect assessments.
- 3) The power to levy and collect special assessments.
- 4) The power to expend monies collected for the purpose of paying the common expenses of the corporation.
- 5) The power to purchase equipment, supplies and material required in the maintenance, repair, replacement, operation and management of the common elements.
- 6) The power to insure and keep insured the buildings and improvements of the condominium as provided for and limited by the Declaration.
- 7) The power to employ the personnel required for the operation of the common elements.

8) The power to pay utility bills for utilities serving the common elements.

9) The power to contract for the management of the condominium and to delegate to its contractor as manager, all of the powers and duties of the corporation, except those things which must be approved by the members.

10) The power to make reasonable rules and regulations and to amend them from time to time, and see to it that all members are notified of such changes in the rules and regulations as may be enacted.

11) The power to improve the condominium property subject to the limitations of the Declaration.

12) The power to enforce by any legal means the provisions of the Articles of Incorporation, the By-Laws, the Declaration of Condominium, and the regulations duly promulgated by the corporation.

13) The power to collect delinquent assessments by suit or otherwise, and to abate nuisance and enjoin or seek damages from unit owners for violation of the provisions of the condominium documents.

14) The power to pay all taxes and assessments which are liens against the common elements.

15) The power to deal with and approve or disapprove of all conveyances as provided for under the terms of the Declaration, and pursuant thereto.

16) The power to select depositories for the corporation funds, and to determine the manner of receiving, depositing, and disbursing corporate funds, and the form of check and the person or persons by whom the same shall be signed, when not signed, as otherwise provided by these By-Laws.

17) The power to possess, enjoy and exercise all powers necessary to implement, enforce, and carry into effect the powers above described, including the power to acquire, hold, convey and deal in real and personal property.

18) The power to enter into, ratify, modify and amend each and every of the agreements and undertakings contemplated by and in the Declaration of Condominium to which these By-Laws are attached.

19) The power to subscribe to and enter into a contract with any person, firm, corporation or real estate management agent of any nature or kind and to provide for the maintenance, operation, repair and upkeep of the Condominium's property.

(a) Said contract may provide that the total operation of said managing agent, firm or corporation shall be at the cost of this corporation. Said contract may further provide that the managing agent shall be paid from time to time a reasonable fee either stated as a fixed fee or as a percentage of the total costs of maintenance, operation, repair

and upkeep or of the total funds of this corporation handled and managed by the managing agent. Such fee, if any, shall be another of the management function costs to be borne by the Association, unless the contract provides to the contrary.

(b) Nothing in this subparagraph 19) or in the Declaration of Condominium shall be deemed to require the Association to maintain the interior of any Condominium Unit, or to enter into any contract or undertaking to provide for the maintenance or upkeep of the interior of the Condominium Units of the Condominium.

20) The power to establish the office of additional officers of this Corporation and to appoint all officers.

21) The power to do all acts required by the licensing authorities to obtain a liquor license for and on behalf of the Association.

22) The power to hold in its own name, but for the benefit of itself and its members, municipal, state and/or federal alcoholic beverage licenses.

Article V - Duties of Officers

A) The President shall:

1) Act as presiding officer at all meetings of the corporation and of the Board of Directors.

2) Call special meetings of the Board of Directors and of members.

3) Sign, with the treasurer, all checks, contracts, promissory notes, deeds, and other instruments on behalf of the corporation, except those which the Board of Directors specifies may be signed by other persons.

4) Perform all acts and duties usually required of an executive to insure that all orders and resolutions of the Board of Directors are carried out.

5) Appoint committees and to be ex-officio member of all committees, and render an annual report at the annual meeting of members.

B) The Vice President shall:

1) Act as presiding officer at all meetings of the corporation and of the Board of Directors when president is absent.

2) Perform other acts and duties required of the president, in the president's absence.

3) Perform such other duties as may be required of him by the Board.

C) Should the President and Vice President be absent from any meeting, the directors shall select from among their members, a person to act as chairman of the meeting.

D) The Secretary shall:

- 1) Attend all regular and special meetings of the members of the corporation and of the Board of Directors and keep all records and minutes of proceedings thereof or cause the same to be done.
- 2) Have custody of the corporate seal and affix same when necessary or required.
- 3) Attend to all correspondence on behalf of the Board of Directors, prepare and serve notice of meetings; keep membership books, and receive all applications for membership, for transfer and lease of units, and present such application to the Board, at its next regular meeting.
- 4) Perform such other duties as the Board may determine and on all occasions in the execution of his duties, act under the superintendence, control and direction of the Board.
- 5) Have custody of the minute book of the meetings of directors and members, which minute book shall at all times be available at the office of the corporation for the information of directors and officers, and act as transfer agent to recordable transfers, and regulations in the corporate books.

E) The Treasurer shall:

- 1) Attend all meetings of the membership and of the Board of Directors.
- 2) Receive such monies as shall be paid into his hands for the account of the corporation, and disburse funds as may be ordered by the Board, taking proper vouchers for such disbursements, and be custodian of all securities, contracts, leases and other important documents of the corporation which he shall keep safely deposited.
- 3) Supervise the keeping of accounts of all financial transactions of the corporation in books belonging to the corporation, and deliver such books to his successor. He shall prepare and distribute to all of the members of the Board at least ten (10) days prior to each annual meeting, and whenever else required, a summary of the financial transactions and condition of the corporation for the preceding year. He shall make a full and accurate report on matters and business pertaining to his office to the members at the annual meeting, and make all reports required by law.

The Treasurer may have the assistance of an accountant or auditor, who shall be employed by the Board of Directors. And in the event the corporation enters into a management agreement, it shall be proper to delegate such of the Treasurer's functions to the management agent as is deemed appropriate by the Board of Directors.

Article VI - Membership

- 1) Membership in the Corporation is limited to owners of the Condominium Units. Membership is automatically conferred upon acquisition of a Condominium Unit, as evidenced by the filing of a deed to such Unit, or as provided in the de-

claration for transfer of membership upon the death of a Unit Owner. Membership is an incident of ownership and is not separately transferable.

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2) There shall be one person with respect to each Unit ownership who shall be entitled to vote at any meeting of the Association. Such person shall be known (and is herein-after referred to) as a "Voting Member". If a Unit is owned by more than one person, the Owners of said Unit shall designate one of them as the Voting Member, or in the case of a Corporate Unit Owner, an officer or employee thereof shall be the Voting Member. The designation of the Voting Member shall be made as provided by and subject to the provisions and restrictions set forth in the Declaration of Condominium of the Association. A vote of a Condominium Unit is not divisible. The ownership of a Unit shall not entitle the Owner thereof to vote in the affairs of the Condominium Association, nor shall such ownership increase the vote which a Unit Owner would otherwise have in the affairs of said Association.

3) Transfer of Membership - Membership in the Corporation may be transferred only as an incident to the transfer of title to a Condominium Unit in the manner provided in the Declaration of Condominium, and shall become effective upon the recording of a deed to such Condominium Unit.

4) Membership shall terminate upon the transfer of title to a Condominium Unit, or upon the death of the Owner of a Condominium Unit.

ARTICLE VII - Meetings, Special Meetings, Quorums, Proxies

A) Meetings of Members

1) All meetings of the Corporation shall be held at the office of the Corporation, or may be held at such time and place as shall be stated in the notice thereof.

Annual Meetings. Annual members' meetings shall be held at the office of the Corporation upon a date appointed by the Board of Directors, which shall fall on the second Monday of January each year. No meeting shall be held on a legal holiday. The meetings shall be held at such time as the Directors shall appoint from time to time. The first annual meeting of the Members shall not occur until December 31, 1979, or one month after fifty Per Cent (50%) of the Condominium Units have been sold, whichever occurs first.

Each annual meeting shall commence at 7:00 P.M. and the Order of Business shall be as follows: (1) Roll call of Unit Owners; (2) Proof of notice of meeting; (3) Reading of minutes of last annual meeting; (4) Report of Officers; (5) Report of Committees; (6) Election of Directors; (7) Old Business; (8) New Business; (9) Adjournment.

Special Meetings. Special meetings shall be held whenever called by the President, or by a majority of the Board of Directors and must be called by the Secretary, upon receipt of a written request from members of the corporation owning Fifteen Per Cent (15%) of the condominium units. Business transacted at all special meetings shall be confined to the objects and action to be taken, as stated in the notice of the meeting.

Proxies. Vote may be cast in person or by proxy. Proxies must be filed with the Secretary of the corporation at least 12 hours prior to the meeting. A proxy shall be valid

and entitle the holder thereof to vote until revoked in writing by the grantor, such revocation to be lodged with the Secretary, or until the death or legal incompetence of the grantor.

Quorum. A quorum for the transaction of business at the annual or any special meeting shall consist of a majority of the unit owners represented either in person or by proxy; but the unit owners present at any meeting although less than a quorum, may adjourn the meeting to a future date.

2) Voting Required to Make Decisions

When a quorum is present at any meeting the vote of a majority of the members present in person or by proxy shall decide any question brought before the meeting, unless the declaration or these by-laws or any applicable statute provide otherwise, in which event the vote prescribed by the declaration or the by-laws or such statute shall control.

B) Directors Meetings

1) The Annual Meeting of the Board of Directors shall be held at the office of the corporation, immediately following the adjournment of the Annual Meeting of members. The Board of Directors may establish a schedule of regular meetings to be held at such place as the directors may designate, in which event no notice need be sent to the directors once said schedule has been adopted.

2) Special Meetings of the Board of Directors may be called by the President, on five (5) days' notice to each director (in writing) to be delivered by mail or in person. Special meetings may also be called on written request of three directors. All notices of special meetings shall state the purpose.

3) Quorum. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the acts of a majority of directors present at such meeting at which a quorum is present, shall be the acts of the Board of Directors. If at any meeting at which a quorum is not present, the presiding officer may adjourn the meeting from time to time, and at any such adjourned meeting, any business which might have been transacted at the meeting as originally called, may be terminated without further notice.

Article VIII - Notice

Written notice of the annual meeting of members shall be served upon or mailed to each member entitled to notice, and shall be posted at a conspicuous place on the Condominium Property, at least fourteen (14) days prior to the meeting.

Written Notice of every meeting of the association, stating whether it is a regular meeting or a special meeting and stating the time, place and object of such meeting shall be served upon or mailed to each member entitled to vote at least five (5) days before such meeting.

Waiver. Nothing herein is to be construed to prevent unit owners from waiving notice of meetings or acting by written agreement without meetings.

Article IX - Procedure

Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with

the Articles of Incorporation and By-Laws of the corporation or with the Statutes of Florida.

Article X - Assessments and Manner of Collection

The Board of Directors has the sole power to and shall from time to time fix and determine the amounts necessary to pay the common expenses of the Condominium. Common expenses include those expenses described in the Declaration of Condominium and any other expenses designated as common expenses by the Board of Directors, under the authority and sanction of both the Declaration and the Condominium Act.

Funds for the payment of common expenses shall be assessed against and shall be a lien against the Condominium Units in the proportion or percentage of sharing common expenses provided in the Declaration of Condominium, as provided in the Declaration of Condominium and the Condominium Act.

Regular assessments shall be paid by the Members on the 15th of each month.

Special assessments, should they be required by the Board of Directors, shall be levied and paid in the same manner as regular assessments, unless the Declaration of Condominium shall otherwise provide.

When the Board of Directors has determined the amount of any assessment, the Secretary shall transmit a statement of such assessment to each Condominium Unit Owner. Assessments are payable at the office of the Corporation.

Assessments are necessarily made upon projections and estimates of the Board of Directors, and may be in excess of, or less than the sums required to meet the cash requirements of the Condominium, in which event the Board of Directors may increase or diminish the amount of an assessment, and make such adjustments in cash, or otherwise as they shall deem proper, including the assessment of each Member of his proportionate share of any deficiency. Notice of all changes in assessments shall be given to all Unit Owners.

Assessments shall not include charges for utilities separately charged and metered to each apartment, nor charges for alterations, repairs, maintenance, improvements, or decorating within the interior of any Unit.

Assessments are due on the dates stated in the notice of assessment, and thereafter shall bear interest at Ten Per Cent (10%) until paid.

In the event an assessment is not paid within thirty (30) days of the date it is due and payable, the Corporation, through the Board of Directors, may proceed to enforce and collect said assessment from the delinquent Owner in any manner provided for by the Condominium Act, the Declaration and these By-Laws. Each Condominium Unit Owner shall be individually responsible for the payment of assessments against his Unit and for the payment of reasonable attorneys fees and costs incurred by the Corporation in the collection of sums due, and the enforcement of any lien held by the Corporation.

Article XI - Fiscal Matters

Fiscal Year. The fiscal year of the Corporation shall begin on the 1st day of January in each year, provided, however, that the Board of Directors is authorized to change to a different fiscal year, at such time as the Board of Directors deems it advisable.

Depositories. The funds of the Corporation shall be deposited in a bank or banks in Dade or Broward County, Florida, in an account for the Corporation under resolutions approved by the Board of Directors, and shall be withdrawn only over the signature of the Treasurer and countersigned by the President, or the Vice President. Said funds shall be used only for corporate purposes.

If necessary, and demanded by mortgages, separate accounts shall be established to maintain and disburse escrow funds, required by mortgages, to meet mortgage requirements as to establishment of escrows for real estate taxes and insurance respecting condominium parcels.

Fidelity Bonds. Fidelity bonds may be required by the Board of Directors from all officers and employees of the corporation, and from any contractor handling or responsible for corporation funds. The premiums for such bonds shall be paid by the corporation.

Records. The Corporation shall maintain accounting records according to good accounting practice which shall be open to inspection by Unit Owners at reasonable times. Such records shall include a record of receipts and expenditures account for each Unit Owner which shall designate the name and address of the Unit Owner, the amount of each assessment, the due dates and amount of each assessment, the amounts paid upon the account, and the balance due, a register for the names of any mortgage holders or lien holders who have notified the Corporation of their liens, and to which lienholders the Corporation will give notice of default if required. The Corporation shall furnish a reasonable written summary of the foregoing to each Unit Owner at least annually.

Annual Statement. The Board of Directors shall present at each annual meeting, a full and clear statement of the business and condition of the corporation.

Insurance. The Corporation shall procure, maintain and keep in full force and effect, all insurance required by the Declaration, pursuant to the provisions of the Declaration.

Article XII - Administrative Rules and Regulations

The Board of Directors may, from time to time, adopt rules and regulations governing the details of the operation and use of the common elements, and such other rules and restrictions as are designed to prevent unreasonable interference with the use of the units, limited common elements, and common elements, by the Members and all Members shall abide thereby, provided that said rules and regulations shall be equally applicable to all Members, and uniform in their application and effect.

Those restrictions in the Declaration of Condominium which in any way limit the use of the individual Units or of the common elements are declared to be house rules and regulations.

Article XIII - Violations and Defaults

In the event of a violation (other than non-payment of an assessment by a Unit Owner) of any of the provisions of the Declaration, these By-Laws, the Rules and Regulations of the Corporation, the Articles of Incorporation or any provision of the Condominium Act, the Corporation, after reasonable notice to cure, not to exceed thirty (30) days, shall have all rights and remedies provided by law, including without limitation (and such remedies shall or may be cumulative) the right to sue for damages, the right to such injunctive relief, and in the event of a failure to pay assessments, the right to foreclose its lien provided in the Condominium Law; and in every such proceeding, the Unit Owner at fault shall be liable for court costs and the Corporation's reasonable attorneys' fees. If the Corporation elects to enforce its lien by foreclosure, the Unit Owner shall be required to pay a reasonable rent for his Condominium Unit during litigation and the corporation shall be entitled to the appointment of a receiver to collect such rent. A suit to collect unpaid assessments may be prosecuted by the Corporation without waiving the lien securing such unpaid assessments.

Article XIV - Amendment of By-Laws

Subject always to the provisions of the Declaration of Condominium, these By-Laws may be amended, modified or rescinded in accordance with the Declaration of Condominium or by a resolution adopted by a majority of the Board of Directors at any duly called meeting of the Board, and thereafter submitted to the Members at any duly convened meeting of the Members and approved by a fifty-one Per Cent (51%) vote of the Members present or by proxy, provided there is a quorum, and further provided that the notice of such meeting of Members specifying the proposed change is given in the notice of meeting, and further provided that the voting requirements of the Declaration of Condominium are met in full, in the appropriate cases. Notice may be waived in writing by any Member. Any Member of the Corporation may propose an amendment to the Board, and the Board shall act upon such proposal, at its next meeting.

Article XV - Validity

If any by-law, or regulation, or rule shall be adjudged invalid, such fact shall not affect the validity of any other by-law, rule, or regulation.

Article XVI - Construction to be Consistent with Declaration of Condominium

These By-Laws and the Articles of Incorporation of the corporation shall be construed in case of any ambiguity or lack of clarity consistent with the provisions of the Declaration of Condominium.

The foregoing was adopted as the By-Laws of MOON BAY CONDOMINIUM ASSOCIATION, INC. a corporation not for profit, under the laws of the State of Florida, at a meeting of the members of said corporation duly noticed, at which all members were present, by the unanimous vote of the members on the _____ day of _____, 1976.

Secretary

Approved

President

OFF: 678 PAGE 466
REC:

RULES AND REGULATIONS

OF MOON BAY, A CONDOMINIUM

RULES AND REGULATIONS
OF
MOON BAY CONDOMINIUM ASSOCIATION, INC.

1. All Condominium Units shall be used solely for residential purposes. No Condominium Unit, whether owned or leased, may be used to conduct any trade or business, the conduct of which would require the license or certification from any municipal, county, state or federal agency or licensing authority.

2. Unit Owners and Occupants shall not use or permit any use of their premises which would constitute an immoral, improper, offensive, or unlawful use; further, no use may be made which would be in violation of any federal, state, county or municipal law, statute, ordinance or administrative rule or regulation, or would be injurious to the reputation of the Condominium.

3. Children, whether they be guests or residents, shall not be permitted to play in the walks, corridors, elevators or stairways of the Condominium Property.

4. The Common Elements shall be used for furnishing the services and facilities for which they were reasonably intended, and said Common Elements shall not be abused, defaced, littered or obstructed in any way.

5. All structural changes or alterations to any Unit, or any Common Element shall be made only pursuant to the Declaration of Condominium.

6. No nuisance shall be allowed upon the Condominium Property nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium Property by its residents. Unit Owners and Occupants shall be permitted to keep pets provided that the maintenance of such pets in their Condominium Units shall not constitute a nuisance. No pet shall be allowed out of the direct personal accompaniment of its owner or agent and must at all times be carried or walked on a short leash and at heel when in any of the common areas of the Condominium. It shall be the obligation of the Association to promulgate and enforce whatever rules and regulations it deems appropriate to prevent the abuse of the pet privilege by those Unit Owners and Occupants having pets. Any pets causing or creating a nuisance or disturbance shall be permanently removed from the Condominium Property forthwith upon written notice from the Board of Directors of the Association, acting through one of the duly elected Officers of the Association. The determination as to whether there has been any violation of this Rule 6, shall be made solely by the Association.

7. No radio or television antenna, or any wiring for any purpose may be installed upon the exterior of the building without the express written approval of the Association.

8. Televisions, radios and musical instruments must be used at such times as will provide a minimum of disturbance to other Apartment Owners. The use of musical instruments after 9:00 P.M. and before 10:00 A.M. is prohibited.

9. No unit owner or resident shall direct, supervise or in any manner attempt to assert any control over any of the employees of the Association, nor shall he attempt to send any of such employees upon private business of such unit owner or resident.

10. The use of all recreational facilities shall at all times be governed by the Rules and Regulations promulgated by the Association.

11. The Association, through its Managing Agent, may retain a passkey to each Condominium Unit for utilization only in the event of an emergency, such as fire, leakage, etc. No Condominium Unit Owner shall alter any lock or install a new lock on any door of the premises without the written consent of the Association. In the event such consent is given, the Condominium Unit Owner shall provide the Association with an additional key for the use of the Association pursuant to its right of access to each Condominium Unit.

12. No awnings or other projections shall be attached to the outside walls of the building.

13. The balconies, terraces and exterior staircases shall be used only for the purposes intended, and shall not be used for the hanging of garments or other objects, or for the cleaning of rugs or other household items.

14. No garbage cans, supplies, milk bottles or other articles shall be placed in the halls or on the staircase landings, nor shall anything be hung from the windows or balconies or placed upon the window sills.

15. No Unit Owner shall in any way affix any "for sale" or "for rent" signs or any other kind of notice to the exterior of his Condominium Unit nor in any other way allow any signs to be visible to the general public from within his Condominium Unit.

16. No Unit Owner shall, without first obtaining the prior written consent of the Board of Directors may make any alteration, modification, decoration, repair, replacement, enclosure or change of the Common Elements, Limited Common Elements, balcony or terrace or the exterior surface of any door or doorjamb which opens into any of the Common Elements or common areas of the Condominium Property, or any exterior hallway lights, including but not limited to the erection of any awning, fixtures, storm shutters, or other devices, paintings, or wall coverings, or any other changes or alterations which would in any way or manner whatsoever change the physical or visual appearance of any portion of the Condominium Property. Open private balconies may be enclosed with screen or glass (fixed or sliding) providing they are the same type, color, material, and size as the sliding glass doors dividing the living room from the private balcony.

17. The building rules and regulations heretofore enumerated shall be deemed in effect until amended by the Association and shall apply to and be binding upon all Condominium Unit Owners. The Unit Owners shall, at all times, obey said rules and regulations and be responsible for their full and faithful observance by their families, guests, invitees, servants, lessees, and other persons over whom they exercise control and supervision.

EXHIBIT "A"

AMENDMENTS
TO
THE DECLARATION OF CONDOMINIUM,
ARTICLES OF INCORPORATION,
AND BY-LAWS
OF
MOON BAY CONDOMINIUM ASSOCIATION, INC.

(Additions shown by underlining; deletions by "—")

1. Amendment to Article XII (f), entitled "Commercial Usage", of the Declaration of Condominium of Moon Bay Condominium to read as follows:

(f) COMMERCIAL USAGE. No condominium unit, or boat slip, whether owned or leased, may be used to conduct any trade or business, the conduct of which would require the license of certification from any Municipal, County, State or Federal agency or licensing authority. Notwithstanding any other provision in this Article XII, the rental or leasing of a condominium unit by an owner shall not be deemed a commercial usage.

2. Amendment to the sixth (6th) paragraph of Article IX of the Articles of Incorporation of Moon Bay Condominium Association, Inc. to read as follows:

Directors may be removed from office by a vote of a majority of the voting interests of the corporation, ~~except that the members of the initial Board of Directors may not be so removed.~~ A majority of the Board of Directors present at a regular or special meeting of the Board of Directors duly called may remove a director who misses three (3) meetings or twenty-five percent (25%) of the scheduled meetings, whichever is less, during any calendar year.

3. Amendment to Article III(A) of the By-Laws of Moon Bay Condominium Association, Inc. to read as follows:

The affairs of the corporation shall be managed by a Board of Directors, composed of ~~not less than three (3) nor more than fifteen (15) persons~~ five (5) persons.

4. Amendment to Article XII of the By-Laws of Moon Bay Condominium Association, Inc. to read as follows:

The Board of Directors may, from time to time, adopt rules and regulations governing the details of the operation and use of the common elements, and such other rules and restrictions as are designed to prevent unreasonable interference with the use of the units, limited common elements, and common elements, by the members and all members shall abide thereby, provided that said rules and regulations shall be equally applicable to all members, and uniform in their application in effect.

Those restrictions in the Declaration of Condominium which in any way limit the use of the individual units or the common elements are declared to be house rules and regulations.

The Association may levy fines in the maximum amount allowed by law as provided for in Chapter 718, Florida Statutes, as amended from time to time, against a unit for the failure of the owner of the unit, or its occupant, licensee, or invitee, to comply with any provision of the Declaration, the Association's By-Laws, or reasonable rules of the Association. Fines may be levied after giving reasonable notice and opportunity for a hearing to the unit owner and, if applicable, its licensee or invitee.

INSTRUMENT PREPARED BY:
SAMUEL A. PERSAUD, ESQ.
PERSAUD LAW GROUP
9100 S. DADELAND BLVD - SUITE 400
MIAMI, FL 33176
TELEPHONE NO. (305) 273-4200

Doc# 1946202
Bk# 2645 Pg# 504

**CERTIFICATE OF AMENDMENT
TO
THE DECLARATION OF CONDOMINIUM
MOON BAY CONDOMINIUM**

WHEREAS, the Declaration of Condominium of Moon Bay Condominium was duly recorded in Official Records Book 678 at Page 395 of the Public Records of Monroe County, Florida; and

WHEREAS, the Articles of Incorporation, By-Laws and Rules and Regulations of Moon Bay Condominium Association, Inc. (the "Association") were attached as Exhibits to the aforementioned Declaration of Condominium; and

WHEREAS, at a duly called and convened meeting of the membership of the Association held on May 4, 2013, the amendments to the Declaration of Condominium as set out in Exhibit "A" attached hereto and incorporated herein were duly approved by a vote of the membership in excess of that required by the pertinent provisions of said condominium documents.

NOW, THEREFORE, the undersigned hereby certifies that the amendments to the Declaration of Condominium as set out in Exhibit "A" attached hereto and incorporated herein are a true copy of the amendments as approved by the requisite percentage of the membership of the Association.

WITNESS my signature hereto this 20th day of July, 2013 at Monroe County, Florida.

MOON BAY CONDOMINIUM
ASSOCIATION, INC.

BY:

Mark Vigarino, President

ATTEST:

Carl Buonomo, Secretary

Samuel A. Persaud
Witness

Carl Buonomo
Witness

Samuel A. Persaud
Witness

Carl Buonomo
Witness

(K) LIEN FOR ASSESSMENTS. Any unpaid portion of any assessment specified in paragraphs (E), (F), (G), and (H) of ARTICLE VII which is due shall constitute a lien upon:

- (1) The Unit and all appurtenances thereto, which liens shall become effective upon the recordation of a claim of lien by the Association in the Public Records of Monroe County, Florida, which claim of lien shall not be recorded until the payment is past due for at least ten (10) days. Upon recordation, the lien shall relate back to the recording of the Declaration of Condominium and shall be superior to all other liens, mortgages, charges or encumbrances. When recorded, this lien shall be effective against all liens, mortgages, charges or encumbrances and the Owners of the Unit(s) against which the claim of lien has been filed as well as against all parties having constructive knowledge thereof, by virtue of such recordation, and,
- (2) All tangible personal property located in the Unit except that such lien shall be subordinate to bona fide Institutional First Mortgages,

(L) COLLECTIONS.

- (1) Assessments and installments paid on or after ten (10) days after due date shall bear interest at the rate of Ten Per Cent (10%) per annum maximum annual interest rate allowed by law from due date until paid. All payments shall be applied first to interest, if accrued, then to costs, then to attorneys fees and then to the assessment payment first due.
- (2) The Association may enforce collection of any delinquent assessment by suit at law for the purpose of securing money judgements without in any way waiving any lien which secures the same in such suit, the Association may recover, in addition to any assessments due it, interest thereon at the rate of ten per cent (10%) per annum maximum interest rate per annum allowed by law, and any and all costs incurred in connection with such suit, including reasonable attorney's fees.
- (3) In addition to any other remedies available to the Association, the Association may foreclose its lien for delinquent assessments in a suit brought in the name of the Association in like manner as the foreclosure of a mortgage on real property. In any such foreclosure, the Owner shall be required to pay a reasonable rental for the Condominium Unit, which rental is hereby declared to be no less than the monthly assessments normally chargeable against said Owner, including any assessment for Common Expenses assessed against said Owner. The Association, in such foreclosure, shall be entitled to the appointment of a receiver to collect said rental for the Association. In addition thereto, the Association shall be entitled to recover in said foreclosure all costs incurred in connection with such suit, including reasonable attorney's fees and appellate attorney's fees incurred by it in connection therewith. The Association may bid on the Unit at said foreclosure sale and thereafter may acquire, hold, lease, mortgage and/or convey the same.

(M) **UNPAID ASSESSMENTS.** In the event that either any assessment or any installment thereof levied against any Unit Owner shall remain unpaid for ninety (90) days or more, then so long as such delinquent assessments and/or installments are not received by the Association, such unpaid assessments and/or installments shall be deemed to be a common expense and treated in a manner consistent with the provisions for the assessment and collection of common expenses.

(N) **CONTINUING OBLIGATION.** Nothing contained herein shall be deemed to discharge a Unit Owner from his obligation to pay any assessment owed to the Association.

(O) **LIMITATION OF LIABILITY.** The liability of a Unit Owner for Common Expenses shall be limited to amounts for which he is assessed from time to time in accordance with the Condominium Act, this Declaration of Condominium and the By-Laws.

(P) In the event that the Association adds additional boat slips and leases same for consideration, the Association, through its Board of Directors, may determine in its sole discretion to utilize the lease income first for improvements and maintenance expenses of the Marina Area and any remaining lease income shall be considered common surplus of the Association. Should the Board of Directors determine to use said lease funds for improvements and maintenance of the Marina Area, it may approve and effect said improvements and maintenance regardless of the cost and despite expenditure limitations contained elsewhere in these documents, provided that only funds generated from boat slip leases are utilized.

(Q). **Association exemption.** Notwithstanding any other provisions in this Declaration, the By-Laws or Articles of Incorporation, in the event the Association shall ever acquire title to a Unit through its lien foreclosure or otherwise, the Association shall not be required to pay assessments, dues, fees, costs or any other charges which are due, past due or may become due upon such Unit and, in such event, the prior Unit Owner of record shall remain responsible and obligated to pay for all assessments, dues, fees, costs and charges that are due and become due upon such foreclosed Unit until such time as the title to such foreclosed Unit is transferred or conveyed to a new Unit Owner. Additionally, the new Unit Owner shall be jointly and severally liable with the prior Unit Owner, excluding the Association if applicable, for all amounts due upon any such Association foreclosed Unit.

@ **Adoption of Amendments to Chapter 718, Florida Statutes.** Notwithstanding any other provisions in this Declaration, the Association's Board of Directors may, from time to time, adopt amendments to Chapter 718, Florida Statutes, or the Board of Directors may, from time to time, adopt specific provisions of Chapter 718, Florida Statutes.

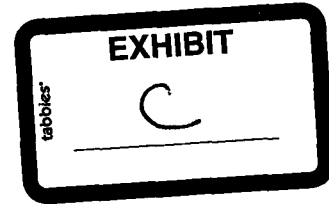
S:\Case\MMOON BAY CONDO\Condo Docs\Ex A to cert of amendment 2013.wpd

EXHIBIT

B

UNIT	CONTACT	IN FAVOR	AGAINST	MORE INFO
A-201	Tod & Robyn Batson	X		
A-202	Jeffrey Mallory		X	
A-203	Keith & Nancy Arnold	X		
A-204	Theodore Bochnik	X		
A-206	William Prebola Jr.	X		
A-207	Kent Coviello	X		
A-208	Jeffery & Rhonda Domagala		X	
A-209	Martin Bischoff & Stacy Publik			X
A-210	Jose & Jenny Chao	X		
A-301	Jane & Richard Raymond	X		
A-302	John & Lisa Glaze		X	
A-303	Michael & Joan Lynn	X		
A-304	Harvey & Beverly Robins		X	
A-305	Elena DiMaggio		X	
A-306	William & Harriet Shouldice		X	
A-307	Alexander & Anastasia Hatsis		X	
A-308	Pedro & Luisa Escobar	X		
A-309	David & Kathy Lindemer	X		
A-310	Julio Raimundez & George Perez			X
A-401	Jorge & Oly Causo			X
A-402	Thomas & Jane Brock		X	
A-403	Milton Bloom, Manager		X	
A-404	Scott & Susanna Clemmer			X
A-405	Brad & Alison Wolniak	X		
A-406	Barbara Priestman		X	
A-407	Don & Janet Schlegel		X	
A-408	Margaret Pye Palmer			X
A-409	Ken & Karen Amos			X
A-410	Abelardo & Judith Vargas	X		
A-501	Michelle Schultz			X
A-502	Charles L & Carolyn L Reid		X	
A-503	Ted and Laura Dreaver		X	
A-504	Joe and Mary Giangrosso			X
A-505	Michael A. & Jane Bondy			X
A-506	Don & Virginia Bartels	X		
A-507	Jeannie T Kuley	X		
A-508	Ron & Kathy Forman	X		
A-509	G. Stuart & Sheila Stovall		X	
A-510	William & Rita Levin		X	
B-101	Wally & Inge Dobelis		X	
B-102	Thomas & Melinda D'Aiuto	X		
B-103	Ronald Seymour		X	
B-105	John & Kathryn Wheeler			X
B-106	Danny & Gloria Bentzinger		X	
B-107	David & Rebecca Lacusky			
B-201	Robert Livoti	X		
B-202	Elena DiMaggio		X	
B-203	Rosalie DiSanto-Geffner			X
B-204	Frank Fiedeken		X	
B-205	Joe & Kitty Pecko		X	

UNIT	CONTACT	IN FAVOR	AGAINST	MORE INFO
B-206	A. Phillip Stallard	X		
B-207	Andrew & Rosemary Clarke		X	
B-301	Craig & Sheryl Akins	X		
B-302	Frank & Catherine Trivigno		X	
B-303	Herbert Schiffer		X	
B-304	Edgar Belaval	X		
B-305	Michelle Schultz, Trustee			X
B-306	James & Katrina Torba		X	
B-307	Mark & Suzanne Vigarino			X
B-401	Theodore Grab	X		
B-402	Tom & Nancy Mitchusson	X		
B-403	Sam Consoli, LLC		X	
B-404	John & Ellen Austin		X	
B-405	Laura Sergo	X		
B-406	Jeff & Teresa Rose			
B-407	Charles & Donna Raymond	X		
B-503	David P Allem & Juan Bellu			X
B-505	Herman & Celia Winkleman	X		
TH-01	David & Brenda Sanderson		X	
TH-02	Barry & Madeline Brand			X
TH-03	Barbara Tucker			
TH-04	Dean S Lichtenwalner			X
TH-05	Daniel & MaryBeth Perry	X		
TH-06	Phil Upton	X		
TH-07	Angelina Petani		X	
TH-08	John & Kathy Freeman		X	
TH-09	Ralph Collazo	X		
TH-10	Larry & Joan Kreisberg		X	
TH-11	Finn & Carolyn Dyrvik		X	
TH-12	Carl & Miriam Buonomo	X		
TH-13	Laura S & Luis A Escobar MD	X		
TH-14	Fernando Perez & Maria Cardenas	X		
TH-15	Robert S. King		X	
TH-16	Ursula Luther		X	
	TOTALS	31	34	16

[Print](#) | [Close Window](#)**Subject:** Fwd: Letter re: slip #35**From:** Brenda Sanderson <mischief.sanderson61@gmail.com>**Date:** Thu, Feb 04, 2016 6:42 pm**To:** Ken Larrivee <ken@keys-condos.com>

Ken: would you please distribute this letter to the new Board of Directors of Moonbay..

> To Whom It May Concern:

> In the event that there is any attempt to install a boat lift on either side of slip #35 attached to TH#1, C16, David and Brenda Sanderson, let the following be known..

>

> Under no circumstances will I allow any owner, renter, agent, representative or installation crew to encroach on all or any part of slip #35 or pilings associated with slip #35 for the purpose of inspection, installation, service or any task related to the installation of boat lift(s) without the express written permission of myself.

>

>

>

> David Sanderson

> Sent from my iPad

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