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FOR
WINDSOR POINTE II, A CONDOMINIUM

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Exhibit List

Exhibit A Legal Description of the Building
Exhibit B Share of Common Elements and Common Surplus
Exhibit C Survey and Site Plan
Exhibit D Unit Designations and Street Addresses
Exhibit E Owner's Association Articles of Incorporation
Exhibit F Owner's Association Bylaws
Exhibit G Master Association Articles of Incorporation
Exhibit H Master Association Bylaws
Exhibit I Description of Master Association Property
Exhibit J Declaration of Covenants, Conditions and Restrictions
Exhibit K Joinder of Mortgagee
Exhibit L Declaration of Covenants and Restrictions for Windsor Parke

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DECLARATION OF CONDOMINIUM

FOR

WINDSOR POINTE II, A CONDOMINIUM

This DECLARATION OF CONDOMINIUM is made this 12th day of May, 1999, by **WINDSOR POINTE OF JACKSONVILLE, INC.**, a Florida corporation, whose address is 10161 Centurion Parkway North, Suite 150, Jacksonville, Florida 32256 ("Developer" or "Declarant"), in and by which the Developer makes the following declarations:

1. **INTRODUCTION AND SUBMISSION**.

1.1 **Submission Statement**. Developer, being the owner of the fee simple title to the property described in **Exhibit A** attached hereto, for itself, its successors, grantees and assigns, hereby submits to the condominium form of ownership and use the land described in **Exhibit A** hereof, the improvements now and hereafter situated thereon, and the easements and rights appurtenant thereto (the "Condominium Property"), pursuant to Chapter 718, Florida Statutes, 1998, as amended through the date hereof (the "Condominium Act").

All the restrictions, reservations, covenants, conditions, easements and limitations of record contained herein shall constitute covenants running with the land or equitable servitudes upon the land, as the case may be, shall run perpetually unless terminated as provided herein, and shall be binding upon all Unit Owners as hereinafter defined. In consideration of receiving and by acceptance of a grant, devise or mortgage, all grantees, devisees or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions hereof, the Articles of Incorporation and the Bylaws of the Association and the Master Association as hereinafter defined. Both the benefits provided and the burdens imposed shall run with each Unit and the interests in Common Elements as defined herein.

1.2 **Name**. The name by which the condominium is to be identified is WINDSOR POINTE II, A CONDOMINIUM, sometimes herein called the "Condominium." The street address is 13175 Richmond Park Drive, Jacksonville, Duval County, Florida 32256.

1.3 **The Land**. The land submitted to Condominium is located in Duval County, Florida, and is described in **Exhibit A** attached hereto and made a part hereof, and consists of a parcel of real property (the "Land") upon which will be situated residential improvements (the "Condominium Building") and common facilities which are submitted hereby to condominium ownership. A survey and site plan of the Land is attached hereto and made a part hereof as **Exhibit C**.

2. **DEFINITIONS**.

2.1 **"Assessment"** means a proportionate share of the funds required for the payment of Common Expenses which from time to time is assessed directly each Unit Owner.

2.2 **"Articles"** mean the Articles of Incorporation of the Association and/or the Master Association, unless the context would prohibit or it is otherwise expressly provided, to be recorded in the County as they now exist and as they may be amended from time to time hereafter.

2.3 **"Special Assessment"** means any assessment levied against unit owners other than those assessments required by a budget adopted annually.

2.4 **"Association"** or **"Condominium Association"** means WINDSOR POINTE II, CONDOMINIUM ASSOCIATION, INC., a not for profit Florida corporation, the entity responsible for the operation of the Condominium and such other Condominiums as are from time to time designated to be maintained or operated by the Association.

2.5 **"Master Association"** means WINDSOR POINTE MASTER ASSOCIATION, INC., a not for profit Florida corporation, the entity responsible for the grounds, access, parking, and roadways used by the Condominium and such other Condominiums as are from time to time designated to be maintained or operated by such Association.

2.6 **"Community Association"** means WINDSOR PARKE OWNERS ASSOCIATION, INC., a not for profit Florida corporation, the entity responsible for the grounds, access, and roadways used by the Condominium and such other developments within the Windsor Parke community as set forth in that certain Declaration of Covenants and Restrictions for Windsor Parke recorded at Volume 7479, Pages 1141 through 1163 of the current public records of Duval County, Florida (the "Community Covenants") attached hereto as **Exhibit L** and incorporated herein by reference, as the same are from time to time designated to be maintained or operated by such Association.

2.7 **"Board"** or **"Board of Directors"** means the Board of Directors of the Association pursuant to the Articles and Bylaws thereof or such other representative body responsible for administration of the Association.

2.8 **"Building"** or **"Condominium Building"** means the structure or structures situate on the Condominium property in which the Units are located, regardless of the number thereof.

2.9 **"Bylaws"** mean the Bylaws of the Association, the Master Association and Community Association, unless the context would prohibit or it is otherwise expressly provided, as they now exist and as they may be amended from time to time hereafter.

2.10 **"Common Elements"** means and includes:

2.10.1 The portions of the Condominium Property which are not included within the Units.

(a) Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishings of utility and other services to Units and Common Elements.

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

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

(d) Any other parts of the Condominium Property designated to Common Elements in this Declaration or any amendment thereto.

2.10.2 Common Elements shall not include improvements installed by Unit Owners.

2.11 **"Common Expenses"** means the expenses of administration, maintenance, operation, repair and replacement of the Condominium Property as well as any Association, Master Association and/or Community Association property and any other properties owned by any of the Associations, other expenses declared by the Association, Master Association and/or Community Association or this Declaration to be Common Expenses and any other valid expenses or debts of the Condominium as a whole or the Association which are assessed against the Unit Owners and includes all expenses incurred by the Association, Master Association and Community Associations for the benefit of the Condominium.

2.12 **"Common Surplus"** means the excess of all receipts of the Association collected on behalf of the condominium, including but not limited to, assessments, rents, profits and revenues on account of the Common Elements over the Common Expenses.

2.13 **"Condominium Parcel"** means a Unit together with the undivided share in the Common Elements which is appurtenant to said Unit; and when the context permits. the term includes all other appurtenances to the Unit.

2.14 **"Master Association Property"** means the property, real and personal for which title or ownership is vested in the Master Association and/or property that is leased by the Master Association or dedicated by a recorded plat to the Master Association for the use and benefit of its members and/or such other persons as the Master Association or Developer may grant use rights.

2.15 **"Community Association Property"** means the property, real and personal for which title or ownership is vested in the Community Association and/or property that is leased by the Community Association or dedicated by a recorded plat to the Community Association for the use and benefit of its members and/or such other persons as the Community Association or Developer may grant use rights.

2.16 **"County"** means the County of Duval, State of Florida.

2.17 **"Covenants"** or **"Declaration of Covenants"** means Windsor Pointe, Declaration of Covenants, Conditions and Restrictions, recorded in the Public Records of the County and attached hereto as **EXHIBIT J**, and the Declaration of Covenants and Restrictions for certain property owned or controlled by the Association to be recorded in the Public Records of the County, all as now or hereafter amended, modified or supplemented.

2.18 **"Community Covenants"** means Windsor Pointe, Declaration of Covenants, and Restrictions, recorded in the Public Records of the County and attached hereto as **EXHIBIT L**, as now or hereafter amended, modified or supplemented.

2.19 **"Declaration"** or **"Declaration of Condominium"** means this instrument, as it may be amended from time to time.

2.20 **"Improvements"** mean all structures and artificial changes to the natural environment (exclusive of landscaping) located on the Condominium property.

2.21 **"Lake(s)"** shall mean a body of water of considerable size, surrounded by land located on the Master Association or Community Association Property, both natural and artificial, and if artificial, designed to hold water on a permanent basis.

2.22 **"Mortgagee"** means a bank, the Developer, savings and loan association, insurance company, mortgage company, real estate investment trust, recognized institutional type lender or its loan correspondent, or agency of the United States Government, which owns, holds or insures a mortgage encumbering a Condominium Parcel. "Mortgagee" also includes Federal National Mortgage Association.

2.23 **"Institutional Mortgagee"** means a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, an agency of the United States Government, Federal National Mortgage Association ("FMNA") Government National Mortgage Association ("GMNA") and other similar insurers and guarantors of mortgages, mortgage banker, or any other lender generally reorganized as an institutional type lender or Developer holding a mortgage on a Unit or Units.

2.24 **"Limited Common Elements"** mean those Common Elements the use of which are reserved to a certain Unit or Units to the exclusion of other Units, as specified in this Declaration Reference herein to Common Elements shall include also all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided.

2.25 **"Major Damage"** wreckage, ruin or destruction of all or a substantial part of the Condominium Property such that the estimated cost of repair or replacement would exceed TWENTY THOUSAND DOLLARS ($20,000.00).

2.26 **"Unit"** means a part of the Condominium property which is subject to exclusive ownership, as designated in the Declaration, which shall consist of land and/or improvements.

2.27 **"Unit Owner"** or **"Owner of a Unit"** means the owner of a Condominium Parcel as shown by the real estate records in the office of the Clerk of Duval County, Florida, whether such Owner be the Developer, one or more persons, firms, associations, corporations or other legal entities. "Owner" shall not mean or refer to the holder of a mortgage or security deed, its successors or assigns, unless and until such holder has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.

2.28 **"Utility Service"** as used in the Condominium Act, construed with reference to this Condominium, and as used in this Declaration, the Articles and the Bylaws shall include, but not be limited to, electric power, gas, water, trash and sewage disposal.

2.29 **"The Condominium"** or **"this Condominium"** means WINDSOR POINTE II, a Condominium.

2.30 **"Voting Certificate"** means a document which designates one of the record title owners, or the corporate, partnership or entity representative who is authorized to vote on behalf of a condominium unit owned by more than one owner or by any entity.

2.31 **"Voting Interest"** means the voting rights distributed to the Association members pursuant to §718.104(4)(i).

3. **DESCRIPTION OF CONDOMINIUM PROPERTY**.

3.1 **Number and Identification of Units**. **Exhibit D** attached hereto and made a part hereof includes a graphic description of the improvements comprising part of the Condominium Property. The improvements shall consist of eight (8) condominium units located in one two-story building. Each "Unit" is identified (as defined in the Condominium Act and herein) by number. A plot (site) plan of the improvements is annexed and made a part hereof as **Exhibit C**.

The construction of the improvements on the Land is not substantially complete; however, at the time the improvements or a portion thereof are substantially completed the Developer shall cause this Declaration to be amended to include a Certificate of Surveyor authorized to practice in this state which shall provide that the construction of the improvements or certain Units to be conveyed are substantially complete so that the materials in **Exhibits A, C** and **D** together with the provisions of the Declaration describing the property or the planned common element facilities is an accurate representation of the location and dimensions of the improvements and that the identification, location and dimensions of the Common Elements and of each Unit to be conveyed can be determined from these materials.

3.2 **Other Improvements**. In addition to the Condominium Building situated thereon, the Land also includes improvements consisting of parking areas, walks, landscaped areas (owned by the Master Association) as well as all underground structures and improvements, which are not part of or located within the Condominium Building, such as wires, cables, drains, pipes, ducts, conduits, valves and fittings serving the Condominium to the extent the same are not elsewhere herein reserved to and/or retained by Developer and/or the Master Association.

3.3 **Units**. The term "Units" as used herein shall mean and comprise the eight (8) condominium units in the Condominium which are located and individually described in **Exhibit D** hereto.

3.3.1 Each condominium Unit shall include that part of the Condominium Building containing such Unit that lies within the following boundaries:

(a) **Upper and lower boundaries**. The upper and lower boundaries of a Unit shall be the boundary of the horizontal plane of the unfinished ceiling surface extended to an intersection with the perimetrical boundaries as an upper boundary and the boundary of the horizontal plane of the unfinished surface of the floor extended to an intersection with the perimetrical boundary as a lower boundary. For those Units which have a cathedral or other type of irregular ceiling the space above the horizontal plane and below the underside of the finished surface of the vaulted ceiling is part of the Unit.

(b) **Perimetrical Boundary**. The perimetrical boundary of each unit shall be the following boundaries of the exterior building walls which are 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 the interior building walls which are the vertical plane of the interior unfinished surface of the walls bounding a Unit (excluding interior partitions within

Units) extended to intersections with other perimetrical boundaries both as extended to an intersection with the upper and lower boundaries.

(c) **Exclusions**. The Unit Owner shall not be deemed to own any spaces or improvements lying beneath the unfinished inner surfaces of the perimeter walls and floors and above the lowest horizontal plane of the uppermost structural elements of each Unit, nor any spaces or improvements lying beneath the undercoated and/or unfinished inner surface of all interior columns, bearing walls and/or bearing partitions nor any pipes, ducts, vents wires, conduits or other facilities equipment and/or fixtures running through any interior wall or horizontal or vertical portion of a Unit, for the furnishing of utility services, heating and cooling and/or ventilation to Units, Common Elements and/or Limited Common Elements.

(d) **Aperture**. All glass and other transparent and/or translucent material insect screens and screening in windows and doors, the material covering other openings in the exterior on interior walls of Units where applicable, shall be construed to be within the boundaries or limits and part of the Unit exclusively served by such windows, doors and other openings.

(e) **Mechanical Equipment**. All air conditioning compressors, water heaters, heat pumps and other mechanical equipment serving only one Unit shall be deemed to be a part of the Unit, wherever the same may be located on the Land.

3.4 **Appurtenances and Possession and Enjoyment of Condominium Parcels**.

3.4.1 There shall pass with each Unit as appurtenances thereto:

(a) An undivided share in the Common Elements and Common Surplus, as more fully described in **Exhibit B** attached hereto and made a part hereof.

(b) An exclusive easement for the use of the air space occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time.

(c) Membership of the Unit Owner in the Association, full voting rights in the Association and the right to use the Association Property and to access properties owned by the Association, subject to the rules and regulations as adopted from time to time by the Association.

(d) Membership of the Unit Owner in the Master Association, and the right to use the Master Association Property and to access properties owned by the Master Association, subject to the rules and regulations as adopted from time to time by the Master Association.

(e) Membership of the Unit Owner in the Community Association, and the right to use the Community Association Property and to access properties owned by the Community Association, subject to the rules and regulations as adopted from time to time by the Community Association.

(f) A non-exclusive easement for ingress and egress by the Owners, their guests, invites and lessees over streets, walks, and other rights-of way serving the Units of the Condominium, necessary to provide reasonable access to the public ways.

(g) An exclusive easement for the use of such Limited Common Elements as may be designated in this Declaration or in the deed conveying the Unit.

3.4.2 Each Unit Owner is entitled to the exclusive possession of his Unit subject to the provisions of this Declaration. He shall be entitled to the use of the Common Elements, in accordance with the provisions of this Declaration and the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of other Unit Owners. There shall be a joint use of the Common Elements and a mutual easement for that purpose is hereby created.

3.4.3 "Time share estates" may not be created in any Unit by any person or entity.

3.5 **Common Elements**.

3.5.1 **Inclusions**. The term "Common Elements", as used herein, shall mean and comprise all of the real property and improvements of the Condominium except Units including without limitation:

(a) easements through Units for conduits, pipes, ducts, vents plumbing wiring and other facilities equipment and/or fixtures for the furnishing of utility services, heating and cooling and/or ventilation to Units and Common Elements;

(b) easements of support in every portion of a Unit which contribute to the support of other Units and/or Common Elements;

(c) installations for the furnishing of utility services to more than one Unit or to the Common Elements or to a Unit other than the Unit containing the installation;

(d) the property and installations in connection therewith required for the furnishing of services to more than one Unit or to the Common Elements;

(e) fixtures owned or held for the common use benefit and enjoyment of all owners of Units in the Condominium;

(f) parking spaces within the Garage of the Condominium Building as to which a single space may be assigned to each Unit Owner;

(g) easements for ingress and egress serving the Condominium property;

(h) all open areas and contained within the Land;

(i) all roadways, sidewalks, paths, fences and entrance areas located on the Land; and

(j) all other improvements owned or held for common use, benefit and enjoyment of all Unit Owners.

3.6 **Limited Common Elements**.

3.6.1 **Existence**. There may be Limited Common Elements appurtenant to Units in this Condominium, as reflected by the plot plan and survey attached as **Exhibit C** hereto. These Limited Common Elements are reserved for the use of the Units to which they are appurtenant or assigned to the exclusion of other Units, and there shall pass with a Unit as an appurtenance thereto the exclusive right to use the Limited Common Elements so appurtenant or assigned. These Limited Common Elements shall include, but not be limited to, the following as specifically designated and delineated by the plot plan and survey attached as **Exhibit C** hereto:

(a) To each Unit any enclosed patio areas and/or balconies that may be depicted on **Exhibit D**.

(b) Each Unit Owner of a Unit in the Condominium has the right of exclusive use of the air space and ground space occupied by the air conditioning compressor, heat pump, air handler and equipment and fixtures appurtenant thereto, serving that Unit.

(c) Anything to the contrary in this Declaration notwithstanding in the event a Unit Owner mortgages his Unit together with his Limited Common Elements (whether or not fully assignable apart from the Unit), such Limited Common Elements shall not be assignable apart from the Unit unless they are released from the lien of the mortgage.

3.6.2 **Costs of Maintenance, Repair or Replacement**. Any expenses of maintenance, repair or replacement of Limited Common Elements shall be treated and paid for as a part of the Common Expenses (except that any maintenance, repairs or replacements caused by an individual Unit Owner shall be charged against the individual Unit Owner). Notwithstanding the foregoing, storage areas, patios and balconies, including any enclosure thereof shall be maintained by an individual Unit Owner.

4. **APPURTENANCES TO UNITS**. There shall be appurtenant, and pass with title to each Unit, the rights, shares and interests provided by the Condominium Act which shall be deemed to include, without limitation the following:

4.1 **Use of Common Elements**.

4.1.1 An undivided one eighth (1/8), share in the Common Elements, as described above.

4.1.2 The right to use exclusively those portions of the Common Elements designated and/or reserved herein and/or granted elsewhere to a certain Unit or Units as Limited Common Elements.

4.1.3 An exclusive easement for the use of the air space occupied by the Unit as it exists at any particular time (as shown on **Exhibit D** hereto) and as it may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is permanently vacated from time to time.

4.1.4 Non-exclusive easements, to be used and enjoyed in common by all present and future owners of Units in the Condominium, their guests and invites, for use of those Common

Elements or other facilities not designated elsewhere herein as Limited Common Elements including, without limitation easements for the furnishing and maintenance of utility services to all parts of the Land over across, in and through the Land, buildings and other improvements, as the fixtures and equipment therefore now exist and/or may be modified or relocated.

4.1.5 An exclusive easement for the unintentional and non-negligent encroachment by any Unit, or upon any portion of the Common Elements, or vice versa for any reason not caused by or resulting from the willful negligent act of Developer or any Unit owner or owners, including construction of improvements which exclusive easement shall exist at all times during the continuance of such encroachments, as an easement appurtenant to the encroaching Unit or other improvements, to the extent of such encroachment.

4.1.6 The Developer reserves the right, but not the obligation to develop other condominiums and/or other residential developments upon lands adjacent to the Condominium property. In the event of such additional development, the Developer reserves the right to grant further non-exclusive easements over the common roads to property owners adjacent to the Land described on **Exhibit A** Developer shall grant such easements to such adjacent property owners, and such adjacent property owners shall enter into an agreement with the Association/Master Association and shall covenant on behalf of themselves and their successors and assigns to pay a pro rata share of the maintenance and repairs for the common roads and to enter into an Agreement with the Association/Master Association to set forth the method of computation of the respective contributions to the maintenance and repairs thereof.

4.2 **Easements**.

4.2.1 An exclusive easement for the use of the air space occupied by the Units as it exists any particular time (as shown on **Exhibit D** hereto) and as it may lawfully be altered or reconstructed from time to time which easements shall be terminated automatically in any air space which is permanently vacated from time to time; and

4.2.2 Non-exclusive easements, to be used and enjoyed in common with the owners of all Units in the Condominium, their guests, invites, and lessees, for use of those Common Elements not designated elsewhere herein as Limited Common Elements, including, without limitation, easements for:

(a) The furnishing and maintenance of private or public utility services to all parts of the real property of the Condominium over, across, in and through the Land, the Condominium Building and other improvements as the fixtures and equipment therefore now exist and/or may be modified or relocated; and

(b) Vehicular and pedestrian access over across upon in and through the drive, sidewalks, entries, gates, wales, grounds, and other portions if any of the Common Elements as are intended and/or provided for pedestrian and vehicular traffic through the Condominium and for access to the common roadways.

(c) An exclusive easement for the use of the area of Land and air space occupied by the appurtenant mechanical equipment, e.g., air conditioning compressor heat pump air handler and the equipment and fixtures appurtenant thereto, situated in and/or on Common Elements of the Condominium but exclusively serving a particular Unit, as the same exists in and

on the Land, which exclusive easement shall be terminated automatically in any air space which is permanently vacated by such air conditioning compressor, heat pump air handler and the equipment and fixtures appurtenant thereto, provided that the removal of the same for repair and/or replacement shall not be construed to be a permanent vacation of the air space which it occupies.

4.3 **Membership**. The right to membership in the Association, Master Association and Community Association upon the terms and conditions set forth elsewhere herein.

4.4 **Ingress and Egress**. Each Unit Owner and his guests, invites, lessees and domestic help, and all delivery, pickup and fire protection services, police and other authorities of the law, United States mail carriers, representatives of utilities authorized by the Developer or Grantor of the easement referenced therein ("Grantor") to serve the Condominium, holders of mortgage liens on the Condominium or any Unit and such other persons as the Developer may from time to time designate, shall have the non-exclusive and perpetual right of ingress and egress over and across the real property constituting common roads within the Community as described in **Exhibits A** and **C** attached hereto and made a part hereof, or as they may be amended in related documents recorded in the public records of the County.

4.5 **Alterations of and improvements to Units and Common Elements**.

4.5.1 **Required Pre-approval**. Subject to the restrictions set forth in Section 9, no Unit Owner shall make any addition, alteration or improvements in or to his Unit, the Common Elements or Limited Common Elements and no fence, wall, gate or other structure or improvement may be erected, installed, maintained or removed on the Condominium Property until the design, construction, specifications and a plan showing the location of the structure have been approved in writing by the Board of Directors as to quality, design and materials, in harmony with existing structures, and as to location with respect to topography and finished grade elevation. Absent such approval of the Board of Directors, said request for approval shall be deemed denied. Nothing contained in this paragraph shall be construed to lessen the obligation of any Owner to make prompt application for and obtain all necessary governmental permits and other approvals with respect to any such structure. In no event shall a Unit Owner make any alterations in the portions of the improvements of the Condominium which are to be maintained by the Association/Master Association, remove any portion thereof, make any additions thereto, do any work which would jeopardize the safety or soundness of the Building containing his Unit or impair any easement, or be in violation of the governing documents of the Community Association.

4.5.2 **Indemnification of Association/Master Association and Unit Owners**. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, Master Association and Community Association and all other Unit Owners harmless from any liability or damage to the Condominium Property and expenses arising therefrom and shall be solely responsible for the maintenance, repair and insurance thereof from and after the date of installation or construction thereof, as may be required by the Association, Master Association and/or Community Association, including, without limitation, any costs, expenses or liability associated with the repair, replacement, removal or reinstallation of said additions, alterations or improvements regardless of the impetus, cause or reason for the same. The provisions of this paragraph shall not apply to the Developer.

4.6 **Restraint Upon Separation and Partition of Common and Limited Common Elements**.

4.6.1 The undivided share in the Common and/or Limited Common Elements which is appurtenant to a Unit shall not be separated therefrom and shall pass with the title to the Unit, whether or not separately described.

4.6.2 A share in the Common and/or Limited Common Elements appurtenant to a Unit cannot be conveyed or encumbered except together with the Unit.

4.6.3 The shares in the Common and/or Limited Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common and/or Limited Common Elements shall lie.

5. **AMENDMENT OF DECLARATION**.

5.1 **Procedure for Amending Declaration**. Except for amendments which Developer is authorized and/or obligated elsewhere herein to make and except as may be elsewhere herein or in the Condominium Act otherwise specifically provided this Declaration may be amended only in the following manner:

5.1.1 **Required Vote of the Units**. This Declaration may be amended at any regular or special meeting of Unit Owners called or convened in accordance with the Bylaws by the affirmative vote of more than two thirds (2/3rds) of the Units.

5.1.2 **Notice**. Notice of the subject matter of any proposed amendment to this Declaration shall be included in the notice of any meeting at which such proposed amendment is to be considered.

5.1.3 **Proposal**. Amendments to this Declaration may be proposed by the Board of the Association by resolution adopted by a majority vote of the Directors present at any regular or special meeting of the Board at which a quorum is present or, in the alternative, by a written instrument signed by a majority of the Board or by the owners of one-tenth (1/10) of the Units, whether by vote of such owners as members of the Association at a special or regular meeting of the members or by written instrument signed by them.

5.1.4 **Adoption of Amendments**. Any amendment to this Declaration so proposed by the Board or members of the Association shall be transmitted to the President of the Association; or, in the absence of the president, to a Vice president or other acting chief executive officer, who shall thereupon call a special meeting of the Unit Owners in this Condominium to consider and vote upon such proposed amendment; provided, that a proposed amendment may be considered and voted upon at an annual meeting of the members of the Association if the next such meeting is to be held within the time hereafter limited and if notice of the proposed amendment shall be included in the notice of such meeting The special or annual meeting as the case may be of the members shall be held not sooner than thirty (30) days nor later than sixty (60) days from the date of receipt by the Association of the proposed amendment. Notice of the meeting shall be in the form and shall be delivered and the meeting shall be called and held as provided for in the Bylaws of the Association; provided, that any member may, in writing signed by

such member, waive notice of any such meeting in the manner provided for in the Bylaws of the Association and such waiver, when delivered to the Secretary of the Association for filing in its records, whether before, during or after such meeting shall be construed to be the equivalent of giving notice to such member.

The proposed amendment may be adopted, and shall become effective, by and upon the affirmative vote at such meeting of owners not less than two-thirds of the Units provided that any amendment proposed may be adopted without a formal meeting of the members, by an instrument executed and acknowledged with the formalities of a deed by members owning not less than eighty percent (80%) of all Units.

5.1.5 **Effective Date and Recording Evidence of Amendment**. An amendment, other than amendments made by the Developer alone pursuant to the Act or this Declaration, shall be evidenced by a certificate of the Association which shall include recording data identifying the Declaration and shall be executed in the form required for the execution of a deed Amendments effected by the Developer must be evidenced in writing and recorded but a certificate of the Association is not required an Amendment of the Declaration is effective when it is recorded in the public records of the County.

5.2 **Prohibited Amendments**. Except as otherwise provided in this Declaration no amendment shall be passed which shall:

5.2.1 Subject to the provisions of Article Four above, change the configuration or the size of any Unit in any material fashion, materially alter or modify the appurtenances to such Unit, nor change the proportional percentage by which a Unit Owner shares the Common Expenses and owns the Common Surplus unless the record owner thereof and all record owners of liens thereon shall join in the execution of such amendment and unless a majority of record owners of all Units approve the amendment; and

5.2.2 Materially impair or prejudice the rights and priorities of any Mortgagee or otherwise violate a Federal National Mortgage Association or Federal Home Loan Mortgage Corporation requirement without the prior written consent of such Mortgagee. Mortgagee's consent shall not be unreasonably withheld.

5.2.3 In any way affect any of the rights, privileges, powers or options of the Developer without the prior written consent of the Developer, or the Master Association.

5.2.4 Discriminate against any Unit Owner or against any Unit or class or group of Units comprising part of the Condominium property, unless the record owners of all affected Units and Institutional Mortgagees thereon shall join in the execution and acknowledgment of the amendment.

5.2.5 Make any change in Article Nine hereof entitled "Insurance," nor in Article Ten hereof, entitled "Reconstruction or Repair After Casualty" unless the Institutional Mortgagees on Units shall join in the execution and acknowledgment of the amendment.

5.2.6 Adversely affect the lien or priority of any previously recorded mortgage to a Mortgagee.

5.2.7 Change the rights and privileges of the Developer without the Developer's written approval

5.2.8 Change the use of any Unit or Common Element to commercial use without Developer's written consent.

5.3 The right of the Developer to amend this Declaration of Condominium as elsewhere provided herein shall not be abridged in any manner by this Article or any other article of this Declaration or exhibits thereto.

5.4 The condominium regime may not be merged with a successor condominium regime without prior written approval of Institutional Mortgagees.

5.5 **Amendments by Developer**. Notwithstanding any provision to the contrary set forth in this Article or elsewhere in this Declaration or in the Articles of Incorporation or Bylaws of the Association the Developer may amend this Declaration to add any surveyor's certificate(s) and/or to amend the documents as required by an Institutional Mortgagee without the consent or joinder of any Unit Owner or Institutional Mortgagee.

5.6 **Amendment to Correct Omission or Error in Condominium Documents**. The Association, by the affirmative vote of the Owners of not less than 51% of the members, may amend the Declaration for the purpose of correcting a defect, error or omission in this Declaration so long as such amendment does not materially or adversely affect the rights of owners, lienors or mortgagees.

6. THE ASSOCIATION.

6.1 **Name of Association**. The entity responsible for the operation of this Condominium shall be WINDSOR POINTE II CONDOMINIUM ASSOCIATION, INC. a Florida corporation not-for-profit (the "Association"), of which a copy of the Articles of Incorporation is attached hereto and made a part hereof as **Exhibit E**, subject to the rights reserved to Developer herein, and in the Condominium Act to administer and manage the Condominium Property the Association shall administer and manage the Condominium Property provided that the Association may, to the extent permitted by the Condominium Act, by contract, delegate its maintenance, management and operational duties and obligations. The Association is also authorized to adopt and publish such reasonable rules and regulations as it deems reasonably necessary for the maintenance and conservation of the Condominium Property, and for the benefit of all Unit Owners. All Unit Owners shall be subject to such rules and regulations.

6.2 **Bylaws of Association**. A copy of the Bylaws of the Association is attached hereto and made a part hereof as **Exhibit F**. Defects or omissions in the Bylaws shall not affect the validity of the Condominium or title to the Condominium parcels.

6.3 **Voting Rights of Unit Owners**. The Unit Owner(s) shall become a member or members of the Association automatically upon and simultaneously with delivery of a deed of conveyance of fee title thereto from Developer or, in a conveyance by a grantee or a remote grantee of Developer, a deed which has been approved by the Association and otherwise complies with the terms and conditions of this Declaration, the Articles of Incorporation and Bylaws of the Association. There shall be appurtenant and pass with title to each Unit, one vote as a member

of the Association, which may be exercised by the Unit Owner(s), or the duly constituted proxy of the Unit Owner(s), from time to time, at all meetings of members and in connection with all matters upon which all members of the Association are entitled to vote. The qualification of members of and manner of admission to membership in the Association the termination of such membership and voting by members shall be as provided for in the Articles of Incorporation and Bylaws of the Association.

7. **THE MASTER ASSOCIATION AND COMMUNITY ASSOCIATION.**

7.1 The Master Association represents all the residents of Windsor Pointe development, including this Condominium, and its members are those persons designated in the Master Association's Articles of Incorporation and Bylaws. The Master Association, acting through its Board of Directors, shall have the powers, rights and duties with respect to the Condominium Property, all as more particularly set forth in the Master Association's Articles of Incorporation and its Bylaws.

7.2 The Master Association is entitled to a lien upon a Unit for any unpaid assessment for expenses incurred or to be incurred by the Master Association in fulfillment of its maintenance, operation and management responsibilities with respect to roadways, bridges, lakes, ponds, drainage facilities, rights-of-way, medians, bicycle paths, entrance ways, irrigation systems, traffic control systems, street lighting, security, uncovered parking areas and other common areas or areas to be used in common with other residents of the Windsor Pointe development, the payment of real estate ad valorem taxes assessed against such common areas and the providing of other services, all of which is more particularly described in the Master Association Bylaws.

7.3 If for any reason the Association fails or refuses to perform the obligations imposed on it hereunder and under the other Condominium Documents, the Master Association shall be, and hereby is, authorized to act for and on behalf of the Association in such respect as the Association has so refused or failed to act, and any expenses incurred thereby by the Master Association shall be reimbursed by the Association.

7.4 Notwithstanding anything herein to the contrary this Declaration shall not be amended in any manner to affect the rights of the Master Association without the written approval of the Board of Directors of the Master Association. Any such approval shall be evidenced by a document, in recordable form, executed by the president of the Master Association and attested to by the secretary of the Master Association.

7.5 The Community Association represents all the residents of Windsor Parke development, including this Condominium, and its members are those persons designated in the Community Association's Articles of Incorporation and Bylaws. The Community Association, acting through its Board of Directors, shall have the powers, rights and duties with respect to the Condominium Property, all as more particularly set forth in the Community Association's Articles of Incorporation, its Bylaws and the Community Covenants.

7.6 The Community Association is entitled to a lien upon a Unit for any unpaid assessment for expenses incurred or to be incurred by the Community Association in fulfillment of its maintenance, operation and management responsibilities with respect to roadways, bridges, lakes, ponds, drainage facilities, rights-of-way, medians, bicycle paths, entrance ways, irrigation systems, traffic control systems, street lighting, security, uncovered parking areas and other common areas

or areas to be used in common with other residents of the Windsor Parke development, the payment of real estate ad valorem taxes assessed against such common areas and the providing of other services, all of which is more particularly described in the Community Association's Articles of Incorporation, its Bylaws and the Community Covenants.

7.7 If for any reason the Association or the Master Association fails or refuses to perform the obligations imposed on it hereunder and under the other Condominium Documents, the Community Association shall be, and hereby is, authorized to act for and on behalf of said Association in such respect as said Association has so refused or failed to act, and any expenses incurred thereby by the Community Association shall be reimbursed by the defaulting Association.

7.8 Notwithstanding anything herein to the contrary this Declaration shall not be amended in any manner to affect the rights of the Community Association without the written approval of the Board of Directors of the Community Association. Any such approval shall be evidenced by a document, in recordable form, executed by the president of the Community Association and attested to by the secretary of the Community Association.

8. **MAINTENANCE, REPAIRS AND REPLACEMENTS**. Responsibility for maintenance, repairs, and replacements of Condominium Property and property of Unit Owners located or situated within the Condominium shall be as follows:

8.1 **Units**. Each Unit, and the personal property therein, fixtures, equipment and appliances comprising a part thereof located therein or exclusively serving the same shall be maintained, kept in good repair and replaced by and at the expense of the Owner(s) thereof. All maintenance, repairs and/or replacements for which Unit Owners are responsible and obligated to perform, whether structural or non-structural, ordinary, or extraordinary shall be performed promptly as the need arises Notwithstanding the obligation of Unit Owners for maintenance, repair and replacement of and in Units, the proceeds of all insurance awards or payments under insurance carried by the Association for loss or damage to or within such Units shall be applied against repairs and replacements to the extent that such award or payments exceed the deductible provisions of such insurance.

8.2 **Common Elements**. The Association shall be responsible for, and shall assess against and collect from all Unit Owners the costs of maintaining repairing replacing and keeping in clean and orderly condition, all of the Common Elements except certain of the Limited Common Elements specified below. The Association shall, at the expense of all Unit Owners, repair any and all incidental damage to Units resulting from maintenance, repairs, and/or replacements of or to Common Elements.

8.3 **Limited Common Expenses**. The responsibility for, and the cost of keeping clean and in orderly condition any patios, balconies or storage areas forming a part of the Limited Common Elements which exclusively serve a certain Unit to the exclusion of other Units, shall be borne by the Owner(s) of the Unit(s) to which the same are appurtenant.

Notwithstanding the Unit Owners' obligations with respect to certain Limited Common Elements, any proceeds of insurance awards or payments under insurance carried by the Association for loss or damage to such Limited Common Elements shall be applied against such repair or replacement to the extent that such award or payments exceed the deductible limits of such insurance.

8.4 **Failure to Maintain**. In the event a Unit Owner fails to maintain his Unit and Limited Common Elements, as required herein, or makes any alteration or additions without the required consent, or otherwise violates or threatens to violate the provisions of this Declaration relevant to maintenance, alteration and repair, the Association shall have the right to levy reasonable fines and/or administrative fees against the Unit Owner and the Unit for such necessary sums to remove any unauthorized addition or alteration and restore the property to good condition and repair.

No such fine or administrative fee will become a lien against the Unit. However, a fine or fee may be levied on the basis of each day of a continuing violation with a single notice and opportunity for hearing, provided that no such fine or fee shall in the aggregate exceed $1,000.00. The levying of the fine or fee shall be in accordance with the provisions of the Bylaws.

The Association shall have the further irrevocable right of access to each Unit during reasonable hours, when necessary for maintenance, repair or replacement of any common elements, limited common elements or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or as necessary to prevent damage to the common elements, limited common elements or to a Unit or Units and may exercise this right by allowing such access to Units by Association employees, or agents or any subcontractors appointed by them.

8.5 **Management**. The Board may enter into a contract with any firm, person or corporation or may join with another condominium association or entity in contracting for the maintenance and repair or management of the condominium property. The Board may contract for and may delegate to the contractor or manager all the powers and duties of the Association, except such as are specifically required by this Declaration or the Bylaws to have the approval of the Board or the membership of the Association. The contractor or manager may be authorized to determine the budget, make assessments for common expenses and collect assessments as provided by this Declaration, the Bylaws and Exhibits to this Declaration.

Each Unit Owner, his heirs, successors and assigns shall be bound by the Management Agreement for the purposes therein expressed, including without limitation:

8.5.1 Adopting, ratifying, confirming, and consenting to the execution of the Management Agreement by the Association.

8.5.2 Covenanting and promising to perform each and every covenant, promise and undertaking to be performed by the Unit Owners as provided in the Management Agreement.

8.5.3 Ratifying, confirming and approving each and every provision of the Management Agreement, and acknowledging that all of the terms and provisions thereof are reasonable.

8.5.4 Agreeing that the persons acting as directors and officers of the Association entering into such an agreement have not breached any of their duties or obligations to the Association.

8.6 **Entry for Maintenance**. The Association shall have the further irrevocable right of access to each Unit during reasonable hours, when necessary for maintenance, repair or replacement of any common elements, limited common elements or of any portion of a Unit to be

maintained by the Association pursuant to this Declaration or as necessary to prevent damage to the common elements, limited common elements or to a Unit or Units and may exercise this right by allowing such access to Units by Association employees, or agents or any subcontractors appointed by them.

The liability for any damage done by the Board, agents or employees of any management firm the Association, Master Association or Community Association shall be the responsibility of the Unit Owner of the Unit being repaired maintained or inspected unless such damage is created by the gross negligence or willful misconduct of the Board agents or employees of any management firm, Association, Master Association or Community Association.

9. **ALTERATIONS OF AND IMPROVEMENTS TO UNITS AND COMMON ELEMENTS**. Except as the right is herein reserved to Developer, neither a Unit Owner nor the Association shall make any alterations, improvements or additions to Units, Common Elements, or Limited Common Elements except in compliance with the following conditions:

9.1 **Architectural Control**. It is the Developer's intent to create and maintain a subdivision in harmony with its surroundings and the natural elements of the land, and the Condominium homes have been designed to be compatible with the environment. No Unit Owner will make any change to the exterior appearance of his Unit.

Additionally no Unit Owner, shall make any addition, alteration or improvements to the Common Elements nor to any limited Common Element.

Notwithstanding the above, a Unit Owner making or causing to be made any additions, alterations or improvement agrees, and shall be deemed to have agreed, for such person and his heirs, personal representatives, successors and assigns, to hold the Association, and all other Unit Owners harmless from any liability or damage to the Condominium Property and expenses arising therefrom and shall be solely responsible for the maintenance, repair and insurance thereof from and after the date of the installation or construction thereof as may be required by the Association, subject to the Board's right to perform appropriate maintenance upon the failure of the Unit Owner to do so as provided in Section 8 above, including, without limitation, any costs, expenses or liability associated with the repair, replacement, removal or reinstallation of said additions, alterations or improvements regardless of the impetus, cause or reason for the same.

In connection with all reviews, acceptance, inspections, permissions, consents or required approvals by or from the Developer or the Association neither the Developer, nor the Association shall be liable to a Unit Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against a Unit Owner or such other person and arising out of or in any way related to the subject matter of any such reviews, acceptances, inspections, permissions, consents or required approvals, whether given, granted or withheld by the Developer, or the Association. Approval of any plans does not in any way warrant that the improvements are structurally sound or in compliance with applicable codes, nor does it eliminate the need for approval from the Duval county building department.

10. **INSURANCE**. Insurance shall be carried and kept in force at all times in accordance with the following provisions:

10.1 **Duty and Authority to Obtain**. The Association shall obtain fire and extended coverage insurance, vandalism and malicious mischief insurance insuring all of the insurable improvements within the Common Elements together with such other insurance as the Association deems necessary in a company with an "A+10" rating or better in an amount which shall be equal to the maximum insurable replacement value as determined annually.

The Association shall obtain and keep in force at all times the insurance coverage which it is required hereby to carry and may obtain and keep in force all of such other or additional insurance coverage as it is authorized hereby to carry. All insurance obtained by the Association shall be purchased for the benefit of the Association, the Association Property, the Condominium Property, and the Unit owners and their Mortgagees.

A certificate evidencing a Mortgagee endorsement shall be issued to the Mortgagee of each Unit.

The Owner(s) of each Unit may, at the expense of such Owner(s), obtain insurance coverage against damage to and loss of the contents of the Unit, personal liability for injury to and death of persons and damage to and loss of personal property of others, and against additional living expenses, provided. that each policy of such insurance purchased by a Unit Owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property without rights of subrogation against other Unit Owners the Association, and their respective employees, agents, guests, and invitees.

10.2 **Required Coverage**. The Association shall purchase and carry casualty insurance covering all of the buildings and the improvements of the Condominium in an amount equal to the maximum insurance replacement value thereof, exclusive of excavation and foundation costs as determined annually by the Board of Directors of the Association such insurance to include or afford protection against:

10.2.1 Loss or damage by fire or other hazards covered by standard extended coverage or other perils of endorsements;

10.2.2 Such other risks of a similar or dissimilar nature as are or shall be customarily covered with respect to buildings and other improvements similar in construction, location, and use to the buildings and other improvements of the Condominium including, without limitation, vandalism, malicious mischief, windstorm, water damage, and war risk insurance if available;

10.2.3 Public liability insurance, in such amounts, with such coverage and in such forms as shall be required by the Board of Directors of the Association to protect the Association and the owners of all Units including without limitation hired
automobile non-owned automobile, off premises employee coverage, water damage and legal liability) with cross-liability endorsements to cover liability of all Unit Owners as a group to each Unit Owner;

10.2.4 Workmen's Compensation insurance to meet the requirements of law; and

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10.2.5 Loss or damage by flood, to the extent, if any, required or necessitated by law, including without limitation, the Flood Disaster protection Act of 1973, or any similar law or regulation.

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

Except for the fidelity bonds that a management agent obtains for its personnel, the fidelity bond shall name the Association as an obligee and shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms of expressions.

10.3 **Optional Coverage**. The Association may purchase and carry such other insurance coverage, other than title insurance, as the Board of Directors of the Association, in its sole discretion, may determine from time to time to be in the best interests of the Association and Unit Owners, including Directors' liability insurance coverage or as an institutional Mortgagee may reasonably require while it holds a mortgage encumbering any Unit.

10.4 **Premiums**. Premiums for all insurance obtained and purchased by the Association shall be paid by the Association. The cost of insurance premiums, and other incidental expenses incurred by this Association in administering and carrying out the provisions of this Article, shall be assessed against and collected from Unit Owners as Common Expenses.

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

10.6 **Assured**. The named insured shall be the Association, individually and as agent for the Unit Owners, without naming them, and as agent for their Mortgagees. All policies of insurance obtained and purchased by the Association shall be for the benefit of the Association, its members and their Mortgagees, as their interests may appear. All proceeds of insurance policies purchased by the Association shall be payable to the Association. The proceeds from insurance against any casualty loss shall be held for the use of the Association, its members and their respective Mortgagees, as their interests may appear, to be applied or distributed in the manner herein provided. The Association is hereby constituted and appointed agent for all Unit Owners, with authority to negotiate and settle the value and casualty insurance, and the Association is granted full right and authority to execute, in favor of any insurer a release of liability arising out of any occurrence covered by any policy or policies of casualty insurance and resulting in loss of or damage to insured property.

10.7 **Insurer**. All persons beneficially interested in the insurance coverage obtained, purchased and maintained by the Association shall be bound by the Association's selection of its insurer(s) and the amount of insurance coverage carried and kept in force by the Association.

10.8 **Application of Insurance Proceeds**. The proceeds of casualty insurance paid to the Association shall be applied and paid as follows:

10.9 **Damage to Common Elements Only**. The proceeds paid to the Association for loss of or damage to real property or improvements constituting Common Elements only shall be applied to the repair, replacement or reconstruction of such loss or damage. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements, the excess shall be paid by the Association to the owners of all Units, and their respective Mortgagees as their interests may appear in shares or proportions equal to the undivided interest appurtenant to each Unit in the Common Elements. If the insurance proceeds shall be insufficient to pay the cost of repair, replacement or reconstruction of such Common Elements, the Association shall pay the difference between the cost of repairing, replacing or reconstructing such loss or damage to the Common Elements and the amount of the proceeds from any Association Reserve Fund which may have been established If no such Association Reserve Fund has been established or if any such Association Reserve Fund has been established and is insufficient to pay said difference, the Association shall assess the amount of the difference against, and collect it from, all Unit Owners, as a Common Expense.

10.10 **Damage to Units**.

10.10.1 **Association's Obligation**. The proceeds paid to the Association for loss of or damage to a building, constituting Common Elements and one or more Units thereof only, shall be first applied to the repair, replacement or reconstruction of Common Elements, then to the repair, replacement or reconstruction of any Unit or Units in such buildings which have been destroyed or damaged. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements and Units, the excess shall be paid by the Association to the owners of the damaged or destroyed Units and their respective Mortgagees, as their interests may appear, in equal amounts. If the insurance proceeds shall be sufficient to pay for the repair, replacement or reconstruction of the Common Elements but shall be insufficient to pay the cost of repair, replacement or reconstruction of the damaged or destroyed Unit or Units in such building, the Owner(s) of the Unit(s) damaged or destroyed shall be liable for the cost of such repair, replacement or reconstruction, in the proportion that the amount of damage sustained to each such Unit bears to the total deficit, upon payment by each such Unit Owner of their proportionate share of the cost of repairing replacing or reconstructing the damaged Units, said funds shall be applied toward the total cost of repairing, replacing or reconstructing all of such damaged or destroyed Units. If the insurance proceeds shall be insufficient to pay the cost of repairs, replacements, or reconstruction of the Common Elements, the difference between the total cost of repairing, replacing or reconstructing the Common Elements and the amount of the insurance proceeds shall be assessed by the Association against, and collected from, all Unit Owners, as a Common Expense. If and when insurance proceeds are paid to the Association for any casualty loss, the holder(s) of any mortgage or mortgages encumbering a Unit shall not have the right to determine or participate in the determination of repair or replacement of any loss or insurance proceeds to the reduction of indebtedness secured by such mortgage(s), unless the insurance proceeds represent a distribution to the Owner(s) of the Unit and the Mortgagee(s) thereof, after such insurance proceeds have been first applied to repair, replacement or

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reconstruction of any loss or damage, or unless such casualty insurance proceeds are authorized to be distributed to the owner(s) of the Unit, and the Mortgagee(s) thereof by reason of loss of or damage to personal property constituting a part of the Common Elements and as to which a determination is made not to repair, replace or restore such personal property.

10.10.2 **Unit Owner's Obligation**. Each Unit Owner shall have the obligation to purchase public liability insurance to protect himself against claims due to accidents within his Unit, and casualty insurance on the contents within said Unit. In addition, he should review the coverage of the Association to determine any additional insurance that may be advisable for him to purchase.

11. **RECONSTRUCTION OR REPAIR AFTER CASUALTY**. Whether, and the manner in which, any or all of the Condominium Property which shall be damaged or destroyed by casualty shall be repaired, reconstructed or replaced shall be determined as follows:

11.1 **Residential Building**. If the Residential Building shall be damaged or destroyed, repair or reconstruction thereof, or termination of the Condominium, shall be in accordance with the following :

11.1.1 **Total Destruction of the Residential Building**. If the Residential Building of the Condominium is totally destroyed or is so damaged that no Unit therein is habitable, neither the Building nor any of the improvements comprising Common Elements shall be reconstructed and the Condominium shall be terminated unless seventy-five percent (75%) of the owners of Units agree in writing, within sixty (60) days after the date of such destruction to reconstruct the same and/or unless any policy or policies of casualty insurance covering the same shall require reconstruction thereof as a condition precedent to the payment of proceeds thereunder, and in either case as long as the then applicable zoning and other regulatory laws and ordinances shall allow the same to be reconstructed.

11.1.2 **Damage to the Building**. If the Residential Building is wholly or partially damaged and a majority of the Units in the building remain habitable, the damaged or destroyed Common Elements and/or Units shall be repaired or reconstructed so that the building and/or Units shall be restored to substantially the same condition as existed at the time the Unit was initially conveyed, unless within sixty (60) days after the casualty is determined by agreement in the manner elsewhere herein provided that the Condominium shall be terminated.

11.2 **Common Elements**. Damaged or destroyed improvements constituting part of the Common Elements shall be repaired, reconstructed and/or replaced unless, in the event of total destruction of the Units, or, by agreement after partial destruction, the Condominium shall be terminated.

11.2.1 **Plans and Specifications**. Repair or reconstruction of Condominium Property shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed, provided that the Board of Directors of the Association may authorize reasonable variations from the original plans and specifications as may appear to them to be necessary or desirable.

11.2.2 **Responsibility**. If the damage or destruction shall be limited only to one or more Units for which the responsibility of maintenance, repair and replacement is that of the affected Unit Owner(s), then such Unit Owner shall be responsible for carrying out the repair or

reconstruction thereof. In all other instances of damage or destruction, the Association shall be responsible for carrying out the repair and reconstruction thereof.

11.2.3 **Construction Funds**. All funds for the payment of repair and reconstruction costs, consisting of insurance proceeds and/or funds collected by the Association from Unit Owners, shall be disbursed toward payment of such costs in the following manner:

(a) **Unit Owner**. The portion of insurance proceeds representing damage for which the responsibility of repair and reconstruction is upon one or more but less than all Unit Owners shall be paid by the Association to the affected Unit Owners and if any of such Units are mortgaged, to the Unit Owners and their Mortgagees jointly.

(b) **Association - Under $20,000.00**. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than Twenty Thousand and No/100 Dollars ($20,000.00), then the Construction Fund shall be disbursed in payment of such costs upon the order of the Association.

(c) **Association - Over $20,000.00**. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than Twenty Thousand and No/100 Dollars ($20,000.00), then the Construction Fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association and upon approval of an architect registered to practice in Florida.

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

12. **EQUITABLE RELIEF**. In the event of "major damage" to or destruction of all or a substantial part of the Condominium Property and if the Property is not repaired, reconstructed or rebuilt within a reasonable period of time, any Unit Owner shall have the right to petition a court of competent jurisdiction for equitable relief which may, but need not, include termination of the Condominium and partition.

13. **LIMITATION OF LIABILITY**.

13.1 The liability of each Unit Owner for Common Expenses shall be limited to the amounts assessed against him from time to time in accordance with the Condominium Act, this Declaration, the Articles and the Bylaws.

13.2 A Unit Owner may be personally liable for any damages caused by the Association in connection with the use of the Common Elements, but only to the extent of his pro rata share of that liability in the same percentage as his interest in the Common Elements and in no event shall said liability exceed the value of his Unit. Each Unit Owner shall be liable for injuries or damages resulting from an accident in his own Unit to the same extent and degree that the owner of a house or any other property owner would be liable for such an occurrence.

13.3 In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it and the Unit Owners, the Association shall give notice of the exposure within a reasonable time to all Unit Owners, and they shall have a right to intervene and defend.

14. **USE RESTRICTIONS**. In order to provide for congenial occupancy of the Condominium Property and for the protection of the value of the Units, the use of the Condominium Property shall be in accordance with the Declaration of Covenants, Conditions and Restrictions of the Windsor Pointe development (**Exhibit J** hereto), and with the following provisions, so long as the Condominium exists:

14.1 **Units**. Except as otherwise specifically provided in this Declaration, no Unit shall be used for any purpose other than that of a residence for individuals living together as a single housekeeping unit, and uses customarily incidental thereto, provided, however, that no Unit may be used as a group home, commercial foster home, fraternity or sorority house, or any similar type of lodging, care or treatment facility. Notwithstanding the foregoing:

14.1.1 an occupant maintaining a personal or professional library, keeping personal business or professional records or accounts, conducting personal business (provided that such use does not involve customers, employees, licensees or invitees coming to the Unit), making professional telephone calls or corresponding, in or from a Unit, is engaging in a use expressly declared customarily incidental to residential use and is not in violation of these restrictions;

14.1.2 it shall be permissible for the Developer to maintain, during the period of its sale or rental of Units, one or more Units as sales and rental models and offices, and for storage and maintenance purposes; and

14.1.3 one or more Units may be maintained for the use of the Association in fulfilling its responsibilities. Nothing herein shall be construed to prohibit leasing of the Units, provided that such leases are in compliance with Paragraph 14.11 hereof.

14.2 **Insurance**. No use shall be made of any Unit or of the Common Elements or Limited Common elements which will increase the rate of insurance upon the Condominium Property without the prior consent of the Association. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in cancellation of insurance on any Unit or part of the Common Elements, or which will be in violation of any law. No waste shall be committed in the Common Elements.

14.3 **Signs**. No sign of any kind shall be displayed to public view on or from any Unit or the Common Elements without the prior written consent of the Board.

14.4 **Pets**. No animals of any kind other than four-footed pets, aquarium fish or small birds such as canaries and parakeets shall be kept in a Unit or allowed upon the Condominium Property except by prior written consent of the Board. Such consent, if given, shall be revocable by the Board at any time and shall automatically expire upon the death or other disposition of the pet. Pets shall be leashed and restrained at all times when on or about the Condominium Property. No guest, lessee, or invitee shall bring any animal upon the Condominium Property, unless specifically permitted by the Association. Unit Owners maintaining pets on the Condominium Property. or whose guests, lessees or invitees bring any animal upon the Condominium Property shall be

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responsible for, and bear the expense of, any damage to person or property resulting therefrom. Any such damage shall be determined by the Board and collection by the Association. The Board of Directors is authorized from time to time to make such rules restricting or permitting pets on the Condominium Property, including, without limitation, the number, type, size and/or weight of such pets, requirements that all animals be leashed and that all animal waste be properly disposed of.

14.5 **Parking**. A minimum of one (1) parking space per dwelling unit shall be provided. Trailers, boats, campers, trucks other than standard size pick-up trucks, recreational vehicles, etc., may not be parked on the Property unless specifically permitted by the Developer or the Association.

14.6 **Encroachments**. None of the rights and obligations of the Unit Owners created herein or by the deed conveying the Condominium shall be altered in any way by encroachment due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of any such encroachments as long as they shall exist; provided however, that in no event shall a valid easement for encroachment be created in favor of Unit Owner(s), if encroachment occurred due to the willful conduct of the Unit Owner(s).

14.7 **Common Elements**. The Common Elements and Limited Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Units. There shall be no obstruction or alteration of, nor shall anything be stored altered on constructed in or removed from, the Common Elements or Limited Common Elements without the prior written consent of the Association.

14.8 **Nuisances**. No noxious or offensive activity shall be allowed upon the Condominium property, nor any use or practice which is the source of annoyance or nuisance to Unit Owners or guests or which interferes with the peaceful possession and proper use of the Condominium Property by residents. All parts of the Condominium Property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor shall any fire hazard be allowed to exist.

14.9 **Floor Coverings**. Hard and/or heavy surface floor coverings such as tile and wood will be permitted only in approved areas. All other areas are to receive sound absorbent, less dense floor coverings, such as carpeting. Use of hard and/or heavy surface floor covering in any location must be submitted to and approved by the Board of Directors and also must meet applicable structural requirements and sound transmission restrictions. Also, the installation of any improvement or heavy object must be submitted to or approved by the Board and be compatible with the structural design of the Building. The Board may require the review of a structural engineer, which costs shall be paid by the Unit Owner. In addition, if any installation will be visible from the exterior of the Building, approval must be obtained from the ARB, should one be established, as to aesthetic compatibility. Owners will be held strictly liable for violation of these restrictions and for all damages resulting therefrom and the Association has the right to require immediate removal of violation.

14.10 **Lawful Use**. No immoral, improper, offensive, or unlawful use shall be made of the Condominium Property or any part thereof and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement,

modification or repair of the Condominium Property shall be the same as is elsewhere herein specified.

14.11 **Leasing**. It is the intention of the Developer in creating this Condominium that its use shall be on a non-transient basis. For so long as the Developer is in control of the Association, all leases must be for a minimum term of one month, must be occupied by the tenant and no subleasing is permitted. All tenants must specifically assume and agree to abide by the terms and conditions of the Declaration of Condominium. After termination of the Developer's right to control the Board of Directors, the Owners may adopt different leasing regulations upon the approval of Owners owing at least fifty percent (50%) percent of the Units. Any noncompliance with the terms and conditions of the Declaration of Condominium, Bylaws, Articles, Covenants and Restrictions and/or other promulgated rules and regulations by such lessee shall be the responsibility of the Unit Owner.

14.12 **Exterior Improvements/Landscaping**. No Unit Owner shall cause anything to be affixed or attached to, hung displayed or placed on the exterior walls doors or windows of the building (including but not limited to awnings signs storm shutters, screens, furniture, fixtures and equipment), nor to plant or grow any type of shrubbery flower, tree, vine, grass or other plant life outside his Unit, without the prior written consent of the Association, subject always to the provisions hereof. All window coverings shall be lined or otherwise made so that they appear from the exterior to be white or off-white.

14.13 **Regulations**. Reasonable regulations and rules concerning the use of the Condominium Property may be promulgated modified or amended from time to time by the Board Copies of such regulations and amendments thereto shall be furnished by the Association to all Unit Owners and residents of the Condominium.

The Association shall have the right to enforce all the restrictions set forth in this Article and the Declaration in any manner it deems necessary including without limitation, injunctions, suit for damages, or fines.

15. **TRANSFER OR SALE OF CONDOMINIUM UNITS**. In order to maintain the Condominium as a community of congenial residents, and thus protect the value of each Condominium Parcel, the transfer, conveyance and/or sale of Units or the lease of Units for more than one (1) year, other than Units owned by the Association or Developer (including, without limitation, any affiliate, assign, subsidiary or trustee of the Developer) shall be subject to the following provisions:

15.1 **Right of First Refusal**. In the event the Owner of any Condominium Parcel wishes to lease for more than one (1) year, sell, assign, or otherwise transfer (for purposes of this Article collectively "transfer") their Unit, and shall have received a *bona fide* offer for the same, such Owner ("Transferor") shall notify the Association in writing of the proposed transfer and shall supply the Association with an executed copy of such offer and the terms thereof, including the name of the prospective transferee and such other information that the Association, in the reasonable exercise of its discretion may request (the "Terms of the Offer"). The Association shall have the option for thirty (30) days from receipt of the Terms of the Offer, to notify the Transferor in writing that it wishes to exercise its rights under this Article 15 and take title to the Unit under the same terms and conditions as a are contained in the Terms of the Offer. The Association shall have the right to assign its option herein granted or to waive its rights under this Article 15.

(a) Upon expiration of the 30 day option period created herein and absent notice to the Transferor that the Association or its assignee intends to exercise the option, the Transferor shall have the right to complete the transaction according to the terms and conditions of the Terms of the Offer as was communicated to the Association.

(b) If for any reason, the transaction is not completed within thirty (30) days of the date for closing as specified in the Terms of the Offer provided to the Association pursuant hereto, the offer shall be deemed to have been abandoned and the Association's right of first refusal pursuant to this Article 15 shall be reimposed on the Unit in question.

For purposes of this Article 15, the term *"bona fide* offer" shall mean an offer made in good faith by a prospective transferee to Transferor for the Condominium Parcel.

15.2 **Lapse of Exercise of Option.** If for any reason not due to the actions or inactions of the Transferor (or anyone on his behalf) the Association (or its assignee) is unable to consummate the transaction according to the Terms of the Offer within the time specified therein for closing, the Association's rights under this Article 15 shall lapse and the Transferor shall have the option of seeking another transferee, which such transfer shall likewise be subject to the terms of this Article 15.

15.3 **Application.** Limitations upon Transfer of any interest in a Condominium Parcel pursuant to Article 15 above shall not apply to transfers made by the Association or Developer (including, without limitation, any affiliate, assign, subsidiary or trustee of the Developer), or to transfers made solely for the purpose of securing the performance of any obligation, transfers involving a foreclosure sale or judicial sale, or any transfer to a mortgagee in lieu of foreclosure, any transfer by a mortgagee after foreclosure or any other proceeding or arrangement in lieu thereof, transfers between join tenants or tenants in common, transfer by operation of law, or transfers to direct descendants or ascendants of the Transferor.

15.4 **Certification of Termination**. Upon request of the Transferor, the Association shall furnish in recordable form to any Unit Owner or other person legitimately interested in the same, a certificate in writing by an officer of the Association that the requirements of this Article 15 have been complied with or duly waived by the Association and the rights of the Association under Article 15 have expired or been terminated. Such certification shall be conclusive evidence of the compliance with the requirements of this Article 15 For all persons relying on the same in good faith and without notice.

15.5 **Rental or Lease**. No rental or lease of a Condominium Unit for more than one (1) year shall be valid unless such lease (and prospective tenant) is first approved by the Association. The Association shall have the right, but not the obligation, to require a substantially uniform form of lease for use throughout the Condominium. No lease or rental agreement shall release the Owner of a Unit from their obligations under this Declaration, the Articles of Incorporation or Bylaws of the Association and/or the Master Association.

15.6 **Occupants**. The Association shall have the right to prohibit occupancy of any Unit by any persons other than a Unit Owner, purchaser or lessee who acquired their interests in compliance with this Article 15.

15.7 **Voidability.** Any purported sale or lease of a Unit where the Unit Owner failed to comply with the requirements of this Article 15, shall be voidable at the election of the Association, provided, however, that such voidability shall exist for a period not to exceed ninety (90) days from the Notice to the Association of the consummation of the transaction.

For purposes of this section, Notice to the Association of the consummation of a transfer shall be evidenced by the earlier of:

(a) Actual occupancy and possession of the Unit by the transferee; or

(b) The Association being furnished with an executed document of conveyance or lease.

Provided however, that within such ninety (90) day period following such Notice to the Association, the Association must commence an action at law or inequity to have the same declared void.

15.8 **Exception.** Any Institutional First Mortgagee making a mortgage loan for the purpose of financing the purchase of a Unit shall not be required to inquire as to whether or not its mortgagor's grantor complied with the provisions of this Article, and any failure of such mortgagor's grantor to comply herewith will not operate to affect the validity or priority of such mortgage.

16. **RESERVED RIGHTS OF DEVELOPER**. In addition to various rights reserved by the Developer elsewhere provided in this Declaration the Developer reserves the following rights:

16.1 **Developer's Use of Units**. Until Developer has completed and conveyed all the Units, neither the Unit Owners nor the Association shall interfere with the completion of the proposed improvements and the sale of the Units. Developer may make such use of the unsold Units and common areas as may facilitate such completion and sale, including, but not limited to maintenance of a sales office, the showing of the Unit, and the display of signs.

16.2 **Easement Rights of Developer**.

16.2.1 **Roads**. Developer hereby reserves for itself, its designees an easement over the Condominium Property as may deem necessary for preserving, maintaining or improving the Condominium property.

(a) **Developer's Easement to Correct Drainage**. For a period of five years from the date of conveyance of the first Unit, the Developer reserves for itself and its designees an easement and right on over and under the ground within the Condominium Property to maintain and to correct drainage of surface water and other erosion controls in order to maintain reasonable standards of health safety and appearance. Such right expressly includes the right to cut any trees bushes or shrubbery make any grading of the soil or to take any other similar action reasonably necessary following which the Developer shall restore the affected Condominium property to its original condition as nearly as practicable. The Developer shall give reasonable notice of intent to take such action to all affected owners, unless in the opinion of the Developer an emergency exists which precludes such notice. The rights granted hereunder may be exercised at the sole option

of the Developer and shall not be construed to obligate Developer to take any affirmative action in connection therewith.

(b) **Construction Easement**. Developer reserves for itself, its nominees, designees, successors and assignees, an easement over and across the Condominium Property as may be reasonably necessary in connection with the construction of improvements within the Windsor Pointe development. Such easement shall include, but not be limited in connection with such construction activity, together with the usual and common noise level created by such construction activity.

(c) **Cable Television**. The Developer hereby reserves the right to install or to contract for the installation of cable television within the Condominium Property.

16.3 **Right to Amend**. The Developer, so long as it owns Units to which more than twenty-five percent (25%) of the Common Elements are appurtenant, reserves the right at any time to amend the Declaration, as may be required by a lending institution or public body or title insurance company. In addition, the Developer reserves the right to amend the Declaration as provided in Section 5 hereof. Any such amendment need only be executed and acknowledged by the Developer and shall not require the joinder or consent of any other Unit Owner or mortgages of any Unit.

16.4 **Rights of Developer to Sell or Lease Units**. So long as Developer, or any mortgagee succeeding Developer in title, shall own any Unit, it shall have the absolute right to sell any such Unit to any person, firm or corporation, upon any terms and conditions as it shall deem to be in its own best interests. In addition, the Developer shall have the right to maintain a sales office or model unit on the Condominium Property for so long as it owns one unit in the Condominium.

16.5 **Waterway Rights**. With respect to any waterways now existing or which may hereafter be contained within or adjoining the Property only the Declarant the Master Association or the Community Association as the case may be shall have the right to pump or otherwise remove any water from such waterways for the purposes of irrigation or other use or to place any matter or object in such waterways. No docks, moorings, pilings, boat shelters or other structure shall be erected on or over the waterways, except as may be erected by the Declarant, the Master Association or the Community Association as the case may be. Canoes, small non-combustion powered boats, gas and diesel driven boats shall be permitted only as designated by the Master Association or the Community Association as the case may be. All permitted boats shall be stored screened from public view or as otherwise designated by the Declarant, the Master Association and the Community Association shall be stored either within existing structures on the Unit Owner's property or in designated areas, if any. Unit Owners are granted the right to reasonable use and benefit of the waterways now existing or which may hereafter be contained within, or adjoin the Property subject to governing law and the right of Master Association and/or Community Association to adopt reasonable Regulations from time to time in connection with the use of the waterways by members of the Master Association and/or Community Association and subject to the Declarant's reserved right to ingress and egress over the waterways. The ingress and egress to the waterways shall be solely at designated access points. The Declarant, the Master Association or the Community Association as the case may be shall have the right to deny such use to any person who in the opinion of Declarant, the Master Association or the Community Association may create or participate in a disturbance or nuisance on any part of the waterways.

The right to reasonable use and benefit of the waterways may be subject to riparian rights of others and may be further granted to such other Persons, as may be designated by Declarant from time to time.

16.6 **Ingress and Egress Maintenance Easement**. Declarant hereby reserves an easement for itself, the Master Association and/or the Community Association across all Lots and all waterways for ingress and egress for the reasonable maintenance and care of any portion of the waterways or their embankments. In light of the meandering nature of shorelines and the constant changes incident to water levels, the Developer does not warrant that the property lines along waterways and other bodies of water will be identical to those depicted on any survey of the Property, at any one time.

16.7 **Additional Easements Reserved**. The real property submitted to condominium ownership herewith is subject to conditions, limitations restriction, reservation all matters of record taxes, applicable zoning ordinances now existing or which may hereafter exist, easements for ingress and egress for pedestrian and vehicular purposes, easements for utility service and drainage now existing or hereafter granted by the Developer for the benefit of such persons as the Developer designates. The Developer shall have the right to grant such easements over and upon the Condominium Property and designate the beneficiary thereof until seven (7) years after recording of this Declaration or until such time as Developer transfers control of the Association to the Unit Owners, whichever shall first occur. Thereafter the Association shall be empowered to grant such easements on behalf of its members. During the period of time that Developer has the right to grant the foregoing easements, the consent and approval of the Association and its members shall not be required. The right to grant the foregoing easements shall be subject to the requirement that the easements not structurally weaken the Condominium building(s) and improvements upon the Condominium Property by Unit Owners.

17. **COMPLIANCE AND DEFAULT**. Each Unit Owner shall be governed by and shall comply with the terms of the Declaration of Condominium, the Articles of Incorporation and Bylaws of the Association, the Master Association and the Community Association and any and all regulations adopted pursuant thereto, as they may be amended from time to time. Failure of the Unit Owner to comply therewith shall entitle the Association, the Master Association, the Community Association or other Unit Owners to the following relief in addition to the remedies provided by the Condominium Act and/or the governing documents of said entity.

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

17.2 **Compliance**. In the event a Unit Owner or occupant fails to maintain a Unit or the Limited Common Elements appurtenant to the Unit, or fails to cause such Unit or Limited Common Elements to be maintained or fails to observe and perform all applicable provisions of the Declaration, the Bylaws the Articles of Incorporation of the Association, the Master Association and/or the Community Association, applicable rules and regulations, the Community Covenants, the Declaration of Covenants, or any other agreement, document or instrument affecting the Condominium property or administered by the Association, the Master Association and/or the Community Association in the manner required by said entity, the Association, the Master Association and/or the Community Association shall have the right to proceed in court of equity to

require performance and/or compliance, to sue in a court of law for damages, to collect from the Unit Owner and the Unit the sums necessary to do whatever work is required to put the Unit Owner or Unit in compliance and to enforce collection by judgment lien and/or any other manner permitted by law. The Association, the Master Association and/or the Community Association shall have the further irrevocable right of access to each Unit during reasonable hours, when necessary for maintenance, repair or replacement of any common elements, limited common elements or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or as necessary to prevent damage to the common elements, limited common elements or to a Unit or Units and may exercise this right by allowing such access to Units by Association employees, or agents or any subcontractors appointed by them.

In addition to or instead of the above the Association shall have the right to levy fines against Unit Owners for any violation of the Declaration Bylaws and/or rules or regulations established by the Association. Any reference to a fine contained in this Declaration shall not be construed as a limitation, fines may be imposed for the violation of any provision herein.

17.2.1 Prior to the levying of such a fine, the Unit Owner and, if applicable, any licensee or invitee must be given reasonable notice of at least fourteen (14) days and an opportunity for hearing. The notice shall include: (a) A statement of the date, time and place of the hearing; (b) A statement of the provisions of the Declaration, Association By-Laws, or Association Rules which have allegedly been violated; and (c) A short and plain statement of the matters asserted by the Association.

17.2.2 A party against whom the Association seeks to levy a fine is entitled to a hearing held before a committee of other Unit Owners. Said party shall have the opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. If the committee of other Unit Owners does not agree with the fine, it shall not be levied.

17.3 **Costs and Attorney's Fees**. In any proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of the Declaration, the Articles of Incorporation and Bylaws of the Association, or any and all regulations applicable to such Owner as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the Court.

17.4 **No Waiver of Rights**. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation and Bylaws of the Association, or the regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

18. **ASSESSMENTS; LIABILITY AND DETERMINATION**. To provide the funds necessary for proper operation and management of the Condominium, the Association has been granted the right to make, levy and collect assessments against all Unit Owners and Units. The following provisions shall govern the making, levying and collecting of such assessments and the payment of the costs and expenses of operating and managing the Condominium by the Association. Nothing contained herein shall abridge or limit the rights or responsibilities of Mortgagees as set forth in the Condominium Act.

18.1 **Common Expenses and Common Surplus**.

18.1.1 Common Expenses shall include the expenses of the operation, maintenance, repair or replacement of the Common Elements, costs of carrying out the powers and duties of the Association, costs of maintaining any facilities and property owned by the Association, and any other expense designated as Common Expenses by the Condominium Act, this Declaration or the Bylaws. The cost of a master antenna television system or duly franchised cable television service obtained pursuant to a bulk contract shall be deemed a common expense.

18.1.2 Common Expenses shall be assessed against Unit Owners in accordance with the percentage set forth for such Unit Type in **Exhibit B** attached hereto and made a part hereof.

18.1.3 Common Surplus, if any, shall be owned by Unit Owners in accordance with the percentage set forth for such Unit Type in **Exhibit B** attached hereto and made a part hereof.

18.2 **Liability for Assessments**.

18.2.1 **Authority to Impose**. The Association, through its Board of Directors, shall have the power to determine and fix the sums necessary to provide for the Common Expenses, including the expense allocable to services being rendered by a management company with whom the Association may contract. The annual Assessment shall initially be payable monthly in advance; however, the Board of Directors shall have the power to establish other collection procedures. In addition, the Board of Directors shall have the power to levy Special Assessments against Units in their respective percentages if a deficit should develop in the payment of Common Expenses during any period that the level of Assessments has not been guaranteed by the Developer. The Board of Directors of the Association may include sums to establish reasonable reserves against future contingencies in each annual Assessment which reserves may be waived or reduced upon the approval of a majority of the total voting interests voting in person or by limited proxy at a duly called meeting of the Association.

18.2.2 **Persons and Entities Liable**. A Unit Owner, regardless of the manner in which he acquired title to his unit including, without limitation, a purchase at a foreclosure sale or by deed in lieu of foreclosure, shall be liable for all Assessments while he is the owner of a Unit. Additionally, a Unit Owner shall be jointly and severally liable with the previous Owner for all unpaid Assessments that came due up to the time of the conveyance. This liability is without prejudice to any right the Owner may have to recover from the previous Owner the amounts paid by the Owner.

The liability for prior Assessments of first mortgagees, or their successors or assignees, who acquire title to a Unit by foreclosure or deed in lieu of foreclosure shall be limited to the lesser of (a) one percent (1%) of the original mortgage debt or (b) the Unit's unpaid common expenses and Assessments which accrued or came due during the six (6) months immediately preceding the acquisition of title and for which payment in full has not been received by the Association. The limitations for prior Assessments imposed by this section shall not apply unless the first mortgagee joined the Association as a defendant in the foreclosure action. The person acquiring title shall pay the amount owed to the Association within thirty (30) days of the transfer of title. Failure to pay the full amount when due shall entitle the Association to record a claim of lien against the Unit and proceed in the same manner as provided in this section for the collection of unpaid Assessments.

The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements, services or recreation facilities, or by abandonment of the Unit against which the Assessment was made. The Association may charge an administrative late fee, in addition to interest, on the late Assessment payments not to exceed the maximum amount permitted under the Condominium Act. Any unpaid share of Common Expenses or Assessments for which a first mortgage mortgagee is relieved from liability under the provisions of this Declaration shall be deemed to be a Common Expense, collectible from all Unit Owners, including such acquirer, his successors and assigns. A first mortgage mortgagee may not, during the period of its ownership of such Parcel, whether or not such parcel is unoccupied, be excused from the payment of some or all of the Common Expenses coming due during the period of such ownership.

The Owner(s) of each Unit shall be personally liable, jointly and severally, as the case may be, to the Association for the payment of all assessments, regular or special, fines on such delinquent assessments or installments thereof as above provided and for all costs of collecting the assessments and interest thereon, including a reasonable attorney's fee, whether suit be brought or not, levied or otherwise coming due while such person(s) or entity own(s) a Unit.

No Owner of a Unit may exempt himself from liability for any assessment levied against such owner and his Unit by waiver of the use or enjoyment of any of the Common Elements, or by abandonment of the Unit, or in any other manner.

18.2.3 **Exceptions to Liability for Assessments**.

(a) **The Association**. Should the Association become the Owner of any Unit(s), the assessment which would otherwise be due and payable to the Association by the Owner(s) of such Unit(s), reduced by an amount of income which may be derived from the leasing of such Unit(s) by the Association, shall be apportioned and the assessment therefor levied ratably among the Owners of all Units which are not owned by the Association, based upon their proportionate interests in the Common Elements exclusive of the interests therein appurtenant to any Unit or Units owned by the Association.

(b) **The Developer**. Upon conveyance of the first Unit to a non-Developer purchaser, the Developer shall not be obligated to pay the share of Common Expenses and Assessments attributable to Units it owns until the earlier of the date control of the Association is turned over to the Unit Owners other than the Developer or January 1, 2000 (the "Guarantee Expiration Date"). Provided however, that the Assessments for the Common Expenses imposed on each Unit Owner, other than the Developer, shall not increase during such period over the amount set forth in the estimated operating budget initially adopted by the Board of Directors, One hundred twelve dollars and 97/100 ($112.97). The Developer shall be obligated to pay any amount of Common Expenses incurred during such period and not produced by the Assessments at the guaranteed level receivable from other Unit Owners. After the Guarantee Expiration Date, the Developer shall be obligated to pay the share of Common Expenses and Assessments attributable to the Units it is then offering for sale or Developer may, in its sole discretion, extend the Guarantee Expiration Date for up to three (3) additional twelve (12) month periods provided that the Assessments levied against the Units other than the Developer do not increase, except as may be required directly as a result in increases in the annual assessment due to Community Association.

The Developer has elected to collect and fund the reserves. Upon transfer of control of the Association to the non Developer Unit Owners, the reserves may only be waived or reduced a majority vote at a duly called meeting of the Association. Waiver or reduction of the reserves by the non-developer Unit Owners in this manner may adversely impact upon the Project's continued financing eligibility under the Federal National Mortgage Association ("FANNIE MAE").

18.3 **Time for Payment**. Unless otherwise determined by the Board, the assessment levied against the Owner of each Unit and his Unit shall be payable monthly on the first day of each month beginning at the time of conveyance of the Unit to a third party.

18.4 **Annual Budget**. The Board shall establish an Annual Budget in advance for each fiscal year which shall estimate all expenses for the forthcoming fiscal year required for the proper operation, management and maintenance of the Condominium, including, when deemed necessary or advisable by the Board, a reasonable allowance for contingencies and reserves.

18.5 **Reserve Fund**. The Board, in establishing each Annual Budget, shall include therein a sum to be collected and maintained as a reserve fund for the capital expenditures, deferred maintenance and replacement of Common Elements and personal property held for the joint use and benefit of the Unit Owners. The amount to be reserved shall be determined by the Board of Directors or as may be required under the provisions of the Condominium Act and may be deleted by a vote of the statutory requisite percentage of Unit Owners.

18.6 **Use of Association Funds**. Except as provided herein with regard to reserve accounts, all monies and assessments collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles, and Bylaws. As the moneys for Assessments are paid to the Association by any Unit Owner (but not any moneys collected therein for reserves), the same may be commingled with moneys paid to the Association by the other owners of Units. Reserve and operating accounts of the Association shall not be commingled. For purposes of facilitating allocation of funds into their proper accounts, the Association may require Unit Owners to pay operating expenses and reserve escrows by separate instrument. Although all funds and other assets of the Association, and any increments thereto or profits derived therefrom, or from the leasing or use of Common Elements, including, without limitation, Common Surplus, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Unit.

18.7 **Delinquency or Default**. The payment of any assessment or installment thereof due to the Association shall be in default if not paid to the Association on or before the due date thereof. If any assessment or installment is not paid by the due date, the Owner and the Unit shall be assessed an Administrative Late Fee in an amount equal to the greater of fifteen dollars ($15.00) or two and one-half percent (2.5%) of the unpaid installment if not paid within ten(10) days of the due date or if not paid within 30 days of the due date the greater of twenty-five dollars ($25.00) or five percent (5%) of the unpaid installment. The Unit and Unit Owner shall also be liable for payment of all late charges and interest assessed by the Community Association according to the requirements governing documents for said association.

Those sums, assessments and installments thereof together with applicable fines and late fees detailed above not paid within thirty (30) days from the date they are due shall bear interest at the highest lawful rate from the 30th day from due date until paid.

If the delinquent installment(s) of Assessments and any charges thereon are not paid in full when due, the Association at its option may, in accordance with requirements of the Condominium Act, declare all of the unpaid balance of the annual Assessment to be immediately due and payable without further demand and may enforce the collection thereof and all charges thereon in the manner authorized by law and this Declaration.

Any payment received by the Association shall be applied first to any interest accrued by the Association, then to any administrative late fee, then to any costs and reasonable attorneys fees incurred in collection, and then to the delinquent assessment or installment. The forgoing shall be applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying said payment.

If the Association is authorized/required to approve or disapprove a proposed lease of a unit, disapproval on the basis of a unit owner's delinquency in the payment of any installment or assessment at the time approval is sought, shall not constitute unreasonable withholding of consent by the Association.

19. **ASSESSMENTS: LIEN AND ENFORCEMENT**.

19.1 **Lien for Assessment**. The Association is hereby granted a lien upon each Unit and its appurtenant undivided interest in Common Elements or Limited Common Elements subordinate to prior bona fide liens of record, which lien shall and does are the moneys due for all assessments levied against each Unit. Interest which may become due on delinquent assessments owing to the Association and reasonable attorney's fees which may be incurred by the Association in collecting and enforcing its lien upon the Unit and its appurtenances. The lien granted to the Association may be established and foreclosed in the Circuit Court in and for the County. Any such enforcement shall be in accordance with the requirements of the Act.

As to first mortgages of record, the lien shall be evidenced by a claim recorded among the public records of the County in the manner provided by the Condominium Act, and shall be effective from and as of the time of such recording.

As to other than first mortgages of record, the lien shall relate back to the recording of the original Declaration of Condominium creating the Unit.

The Board of Directors may take such action as it deems necessary to collect Assessments by either an in personam action or lien foreclosure, or both, and may settle and compromise the same if in the best interest of the Association. Said liens shall have the priorities established by the Condominium Act.

Liens for Assessments may be foreclosed by suit brought in the name of the Association in like manner as a foreclosure of a mortgage on real property. The Association may bid in the Condominium Parcel at foreclosure sale and apply as a cash credit against its bid all sums due the Association secured by the lien being enforced, and the Association may acquire and hold, lease, mortgage and convey any Condominium Parcel so acquired.

In any suit for the foreclosure of the lien the Association shall be entitled to seek a judicial order awarding rental from the Owner of any Unit from the date on which the payment of any assessment or installment thereof became delinquent and shall be entitled to the appointment of a Receiver for the Unit. The rental required to be paid shall be equal to the rental charged on comparable types of Units in the County. The lien of the Association shall also secure all advances for taxes and payments on account of superior mortgages, liens or encumbrances made by the Association to preserve and protect its lien, together with interest at the highest rate permitted by law on all such advances made for such purpose.

19.2 **Effect of Foreclosure or Judicial Sale**. In the event that any person, firm, partnership or corporation shall acquire title to any interest in a Unit and its appurtenant undivided interest in Common Elements by virtue of any foreclosure, deed in lieu of foreclosure, or judicial sale, such person, firm or corporation so acquiring title shall only be liable and obligated for assessments due and payable for the Unit and its appurtenant undivided interest in Common Elements except that a first mortgagee acquiring title thusly is liable for the unpaid assessments that became due prior to the mortgagee's receipt of the deed. However, the first mortgagee's liability is limited to a period not exceeding six (6) months and in no event shall the first mortgagee's liability exceed one (1) percent of the original mortgage debt. The first mortgagee's liability for such expenses or assessments does not commence until thirty (30) days after the date the first mortgagee received the last payment of principal or interest. In no event shall the mortgagee be liable for more than six months of the Unit's unpaid common expenses or assessments accrued before the acquisition of the title to the Unit by the mortgagee or one (1) percent of the original mortgage debt, whichever amount is less.

19.3 **Effect of Voluntary Transfer**. When the owner of any Unit proposes to sell or mortgage the same in compliance with other provisions of this Declaration, the Association, upon written request of the Unit Owner, shall furnish to the proposed purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by the owner of such Unit. Such statement shall be executed by an officer of the Association and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

In the event that a Unit is to be leased sold, or mortgaged at the time when payment of any assessment against the owner of the Unit and Unit due to the Association shall be in default (whether or not a claim of lien has been recorded by the Association) then the proceeds of such sale or mortgage proceeds, as the case may be, shall be applied by the lessee, purchaser or mortgagee first to payment of any then delinquent assessment or installment thereof due to the Association before payment of the balance of such proceeds of sale or mortgage to the owner of the Unit responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

19.4 **No Election of Remedies**. Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking enforcement of the collection of any sums

remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sum then remaining owing to it.

20. **REGISTRY OF OWNERS AND MORTGAGEES**. The Association shall at all times maintain a Register of the names of the owners and mortgagees of all Units. Upon the transfer of title to any Unit, the transferee shall notify the Association in writing of his interest in such Unit together with recording information identifying the instrument by which such transferee acquired his interest in the Unit. The owner of each Unit encumbered by a mortgage shall notify the Association of the name and address of the mortgagee, the amount of such mortgage, or mortgages, and the recording information identifying the same. The holder of any mortgage encumbering a Unit may notify the Association of any such mortgage(s), and upon receipt of such notice the Association shall register in its records all pertinent information pertaining to the same.

21. **TERMINATION**. The Condominium may be terminated in the following manner in addition to the manner provided by the Condominium Act:

21.1 **Destruction**. In the event it is determined in the manner elsewhere herein provided, that the improvements shall not be reconstructed because of total destruction or major damage, the condominium plan of ownership will be thereby terminated without agreement.

21.2 **Agreement**. If all Unit Owners and the holders of all liens and mortgages upon all of the Condominium Parcels execute and duly record an instrument terminating the Condominium Property, or if "major damage" occurs, the Condominium Property shall be removed from the provisions of the Condominium Act and thereafter owned in common by the Unit Owners. The undivided interest in the Property owned in common by each Unit Owner shall then be the percentage of the undivided interest previously owned by such Owner in the Common Elements, and any liens which encumbered any Condominium Parcel shall be transferred to said undivided interest of the Unit Owner in the Property.

If the Owners of at least 85% of the Common Elements elect to terminate, they shall have the option to buy the Units of the other Unit Owners for a period of sixty (60) days from the date of the meeting wherein the election to terminate was taken. The purchase price shall be the fair market value of the Units as of the date of said meeting as determined by arbitration under the rules of the American Arbitration Association. The price shall be paid in cash within thirty (30) days of the determination of the same.

21.3 **Certificate**. The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its president and secretary certifying to facts effecting the termination which certificate shall become effective upon being recorded in the public records of the County. When the Board of Directors intends to terminate or merge the Condominium or dissolve or merge the Association, the Board shall so notify the division before taking any action to terminate or merge the Condominium or Association. Upon recordation of the instrument evidencing consent of all of the unit owners to terminate the Condominium the Association, within thirty business days, shall notify the Division of Florida Land Sales, Condominiums and Mobile Homes (the "Division") of the termination and the date the document was recorded, the county in which the document was recorded, and the book and page of the public record was recorded and shall provide the Division a copy of the recorded termination notice certified by the clerk.

21.4 **Shares of Owners After Termination**. After termination of the Condominium the Unit Owners shall own the Condominium Property and all assets of the Association as tenants in Common in undivided shares. and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Unit Owners. Such undivided shares of the Unit Owners shall be the same as the undivided shares in the Common Elements appurtenant to the Owner's Units prior to the termination.

21.5 **Amendment**. This Article cannot be amended without consent of four-fifths (4/5) of the Unit Owners and of all Institutional Mortgagees required to approve termination by agreement.

22. **CONDEMNATION**. Whenever all or any part of the Condominium Property shall be taken by any authority having the power of condemnation or eminent domain each Unit Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto unless otherwise prohibited by law. The award made for such taking shall be payable to the Association unless otherwise provided by law at the time of such taking any award made therefor shall be disbursed by the Association in accordance with the applicable provisions of this Declaration and/or determination of the applicable governmental body.

If the taking includes one or more Units, or any part or parts thereof, whether or not there is included in the taking any part of the Common Elements, then the award shall be disbursed as provided by law. All related matters, including without limitation alteration of the percentages of undivided interest of the Owners in the Common Elements, shall be handled pursuant to and in accordance with the consent of owners as required by this Declaration (or such lesser number of owners as may then be prescribed by the Condominium Act for the purpose of altering the percentages of undivided interest of the owners in the Common Elements) expressed in a duly recorded amendment to this Declaration. In the event that such an amendment shall not be recorded within 90 days after such taking then such taking shall be deemed to be and shall be treated as damage or destruction which shall not be repaired or reconstructed as provided for in Article, whereupon the development may be terminated in the manner herein prescribed.

If part of the Common Elements is acquired by eminent domain, the award shall be paid to the Association. The Association shall divide any portion of the award not used for any restoration or repair of the remaining Common Elements among the Unit Owners in proportion to their respective Common Element interests before the taking but the portion of the award attributable to the acquisition of a Limited Common Element shall be equally divided among the owners of the Units to which that Limited Common Element was allocated at the time of acquisition.

The Association shall give to each Mortgagee prompt written notice of any such eminent domain or condemnation proceedings.

23. **RIGHTS OF MORTGAGEES**.

23.1 **Rights**. Any Institutional mortgagee of a Unit who makes a request in writing to the Association for the items provided in this Article shall have the following rights:

23.1.1 To be furnished with at least one (1) copy of the Annual Financial Statement and report of the Association.

23.1.2 To be given written notice by the Association of the call of a meeting of the membership to be held for the purpose of considering any proposed amendment to this Declaration of Condominium, or the Articles of Incorporation and Bylaws of the Association which notices shall state the nature of the amendment being proposed.

23.1.3 To be given notice of default (if such default remains uncured for 30 or more days by any member owning any Unit encumbered by a mortgage held by such mortgagee, such notice to be given in writing and to be sent to the principal office of such mortgagee or to the place which it or they may designate in writing to the Association.

23.1.4 To be given an endorsement to the insurance policies covering the Common Elements requiring that such Mortgagee be given any notice of cancellation provided for in such policy.

23.1.5 To examine the books and records of the Association upon reasonable notice during ordinary working hours.

23.1.6 To obtain current copies of the Declaration, Bylaws and other rules concerning the project.

23.1.7 To obtain written notice of any condemnation loss eminent domain procedures or any casualty loss which affects a natural portion of the Condominium or any Unit upon which such mortgagee has a first mortgage.

23.1.8 To obtain notice of any lapse, cancellation or material modification of any fidelity bond maintained by the Association.

23.2 **Consent Required**. Except as shall be elsewhere provided herein unless Institutional Mortgagees having loans secured by Units to which 75% of the Common Elements are appurtenant have given their prior written approval, the Association shall not be entitled to:

23.2.1 by act or omission seek to abandon, partition, subdivide, encumber sell or transfer real estate or improvements thereon owned directly or indirectly by the Association. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Condominium Property shall not be deemed a transfer within the meaning of this clause;

23.2.2 change the method of determining the obligations, assessments, fees, fines, dues or other charges which may be assessed against any Units by the Association;

23.2.3 by act or omission change waive or abandon the regulations or enforcement thereof contained in this Declaration pertaining to the architectural design or the exterior appearance of Units the maintenance of party walls or common fences and driveways, or the upkeep of walls and planting on the properties.

23.3 **Reimbursement for Costs**. In the event the Association fails to pay when due, taxes assessed against the Common Elements or premiums of insurance covering the improvements on the Common Elements, then any one or more of the Institutional Mortgagees may pay such taxes or insurance premiums, and the Association shall be obligated to reimburse such Institutional Mortgagee or Mortgagees for such payments, and until paid, the same shall constitute a lien upon the Common Elements in favor of the party or parties, entity or entities, paying same which lien

may be enforced in a court of competent jurisdiction of the State of Florida in the same manner as a judgment lien may be enforced

24. **MISCELLANEOUS**.

24.1 **Severability**. The invalidity in whole or in part of any covenant or restriction or any Article, subarticle sentence, clause, phrase or word or other provision of this Declaration of Condominium and the Articles of Incorporation Bylaws and regulations of the Association shall not affect the validity of the remaining portions thereof.

24.2 **Applicability of Declaration of Condominium**. All present or future owners, lessees, tenants, or any other person who might use the facilities of the Condominium in any manner, are subject to the provisions of this Declaration and the mere acquisition or rental of any Unit, or mere act of occupancy of any Unit, shall signify that the provisions of this Declaration of Condominium are accepted and ratified in all respects.

24.3 If the Developer holds Units for sale in the ordinary course of business, none of the following actions may be taken without the Developer's written approval:

24.3.1 Assessment of the Developer as a Unit Owner for capital improvements, and

24.3.2 Any action by the Association that would be detrimental to the Developer's sale of Units.

24.3.3 Notices to Unit Owners shall be sent to their place of residence in the Condominium Building, unless the Unit Owner has, by written notice to the Association, specified a different address. Notices to the Association and the Developer shall be delivered by certified mail to Windsor Pointe of Jacksonville, Inc., 10161 Centurion Parkway North, Suite 150, Jacksonville, Florida 32256 with a copy to John S. Duss, IV, Esquire, Ford, Jeter, Bowlus & Duss, P.A., 10110 San Jose Boulevard, Jacksonville, Florida 32257. All notices shall be deemed and considered sent when mailed. Any party may change his or its mailing address by written notice to the other party.

24.4 **Enforcing the Provisions of Declaration, Articles and/or Bylaws**. Each Unit Owner, the Developer and the Association shall have the right at law or in equity to enforce the terms and conditions of this Declaration, the Articles and Bylaws. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation of the Association, the Bylaws, or the Rules and Regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter. Unless otherwise provided herein, the Association may levy against any Owner a fine not in excess of $100 per violation for each day or the highest fine permitted under the Condominium Act that such Owner continues to violate any of the requirements of this Declaration after the Association has given notice of the violation and an opportunity for hearing to the Unit Owner.

24.5 **Remedy for Violations**. The remedy for violation provided by the Condominium Act shall be in full force and effect. In addition thereto, should the Association find it necessary to institute legal actions, upon a finding by a court in favor of the Association, the defendant Unit Owner shall reimburse the Association for its costs of suit, including reasonable attorney's fees at both trial and appellate level, incurred by it in bringing such action.

24.6 **Gender\Plural Usage**. Whenever the context so requires, the use of any gender shall be deemed to include all genders, the use of the plural shall include the singular and the singular shall include the plural.

24.7 **Execution of Documents Required by Government**. The Developer's plan for the development of this Condominium may require from time to time the execution of certain documents required by any governmental agency having jurisdiction over this Condominium. To the extent that said documents require the joinder of Unit Owners, the Association by its duly authorized officers may, as the agent or the attorney-in-fact for the Unit Owners, execute acknowledge and deliver such documents and the Unit Owners, by virtue of their acceptance of deeds to their Units, irrevocably nominate, constitute and appoint the Association, through its duly authorized officers, as their proper and legal attorneys-in-fact for such purpose. Said appointment is coupled with an interest and is therefore irrevocable.

24.8 **Construction**. The provisions of this Declaration shall be literally construed to effectuate its purpose of creating a uniform plan of Condominium ownership. The Florida Condominium Act as amended to the date hereof is hereby adopted and made a part hereof In the event of any conflict between the provisions of this Declaration and the Condominium Act, the provisions of the Condominium Act shall prevail.

24.9 **Parties Bound**. The restrictions and burdens imposed by the Declaration of Condominium are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Unit and its appurtenant undivided interest in Common Elements and this Declaration shall be binding upon Developer, its successors and assigns, and upon all parties who may subsequently become owners of Units in the condominium and their respective heirs, legal representatives, successors and assigns.

IN WITNESS WHEREOF, Developer has caused the foregoing Declaration of Condominium to be executed and its corporate seal to be affixed, by its duly authorized officer this 12 day of May, 1999.

Signed, sealed and delivered in the Presence of:

WINDSOR POINTE OF JACKSONVILLE, INC.,
a Florida corporation.

Print Name THERESA MARIE KENNEY

BY: JOHN K. SISK
Its President

Print Name JOHN S. DUSS

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 12th day of May, 1999, by JOHN K. SISK, the president of Windsor Pointe of Jacksonville, Inc., a Florida corporation on behalf of the corporation.

(print name)
Notary Public, State and County aforesaid
Commission No.:
He/She (please check appropriate statement)
____ is personally known to me
____ produced identification (specify type)

THERESA MARIE KENNEY
MY COMMISSION # CC 634352
EXPIRES: July 28, 2001
Bonded Thru Notary Public Underwriters

JK2/130726.1

PARCEL 2

A PORTION OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 28 EAST, CITY OF JACKSONVILLE, DUVAL COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE NORTHEASTERLY RIGHT-OF-WAY LINE OF RICHMOND PARK DRIVE NORTH (AN 80 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED) WITH THE EASTERLY RIGHT-OF-WAY LINE OF HODGES BOULEVARD (COUNTY ROAD NO. 3888, A 200 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED), THENCE ALONG AND AROUND THE ARC OF A CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 25.00 FEET, AND ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE A CHORD BEARING AND DISTANCE OF SOUTH 28°12'06" EAST 35.36 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE CONTINUE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE SOUTH 73°12'06" EAST 274.28 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT; THENCE CONTINUE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE AND ALONG AND AROUND THE ARC OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 640.00 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 53°33'54" EAST 430.16 FEET; THENCE NORTH 52°27'33" EAST 31.53 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 52°27'33" EAST 45.67 FEET; THENCE SOUTH 37°32'27" EAST 14.33 FEET; THENCE NORTH 52°27'33" EAST 4.67 FEET; THENCE SOUTH 37°32'27" EAST 70.00 FEET; THENCE SOUTH 52°27'33" WEST 4.67 FEET; THENCE SOUTH 37°32'27" EAST 14.33 FEET; THENCE NORTH 52°27'33" EAST 18.67 FEET; THENCE SOUTH 37°32'27" EAST 24.17 FEET; THENCE SOUTH 52°27'33" WEST 83.01 FEET; THENCE NORTH 37°32'27" WEST 24.17 FEET; THENCE NORTH 52°27'33" EAST 18.67 FEET; THENCE NORTH 37°32'27" WEST 14.33 FEET; THENCE SOUTH 52°27'33" WEST 4.67 FEET; THENCE NORTH 37°32'27" WEST 70.00 FEET; THENCE NORTH 52°27'33" EAST 4.67 FEET; THENCE NORTH 37°32'27" WEST 14.33 FEET TO THE POINT OF BEGINNING.

Tri-State Land Surveyors, Inc.
8411 Baymeadows Way, Suite 2 • Jacksonville, Florida 32256
(904) 731-7235

May 12, 1999

Building No. 2 Windsor Pointe Condominiums

The construction of the improvements are substantially complete so that the material, together with the provisions of the declaration describing the condominium property, is an accurate representation of the location and dimensions of the improvements and so that the indentification, location, and dimensions of the common elements of each unit can be determined from these materials.

Larry E. Eddy, P.L.S. #4144
Florida Professional Land Surveyor

msworks/let/condo

Share of Common Elements, Common Surplus and Common Expenses

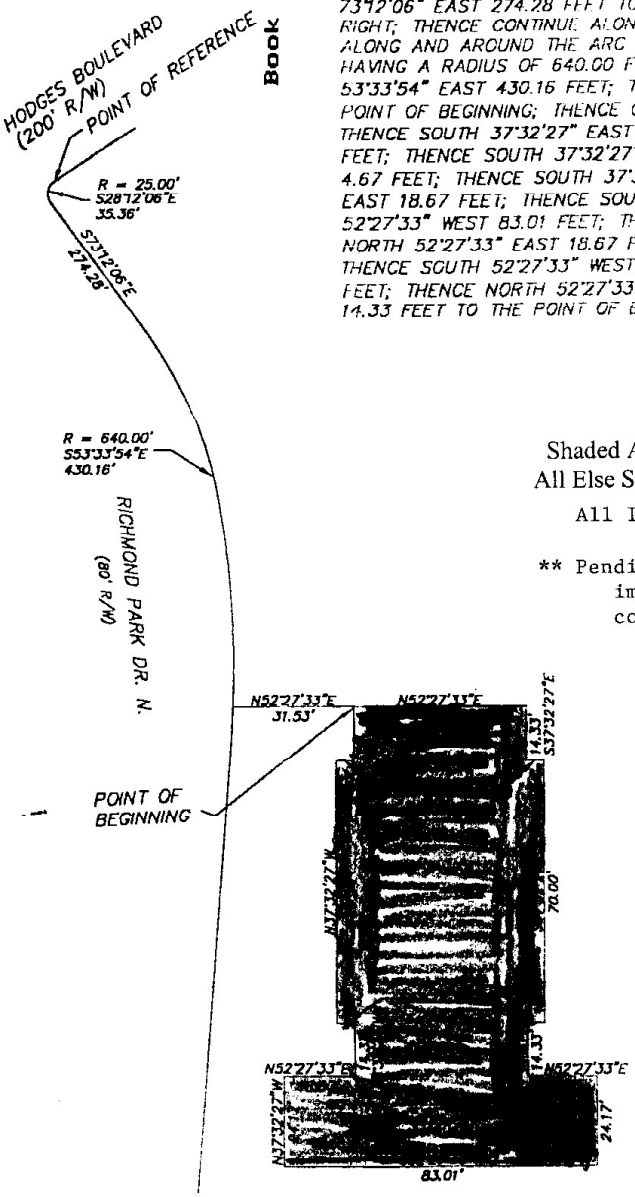
Book 9291 Pg 2381

Each unit shall have an undivided one eighth (1/8) interest in the Common Elements, Common Surplus and Common Expenses of the Condominium.

MAP SHOWING

PARCEL 2

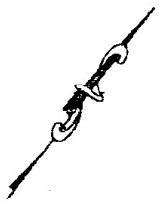
A PORTION OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 28 EAST, CITY OF JACKSONVILLE, DUVAL COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE NORTHEASTERLY RIGHT-OF-WAY LINE OF RICHMOND PARK DRIVE NORTH (AN 80 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED) WITH THE EASTERLY RIGHT-OF-WAY LINE OF HODGES BOULEVARD (COUNTY ROAD NO. 3888, A 200 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED), THENCE ALONG AND AROUND THE ARC OF A CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 25.00 FEET, AND ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE A CHORD BEARING AND DISTANCE OF SOUTH 28°12'06" EAST 35.36 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE CONTINUE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE SOUTH 73°12'06" EAST 274.28 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT; THENCE CONTINUE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE AND ALONG AND AROUND THE ARC OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 640.00 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 53°33'54" EAST 430.16 FEET; THENCE NORTH 52°27'33" EAST 31.53 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 52°27'33" EAST 45.67 FEET; THENCE SOUTH 37°32'27" EAST 14.33 FEET; THENCE NORTH 52°27'33" EAST 4.67 FEET; THENCE SOUTH 37°32'27" EAST 70.00 FEET; THENCE SOUTH 52°27'33" WEST 4.67 FEET; THENCE SOUTH 37°32'27" EAST 14.33 FEET; THENCE NORTH 52°27'33" EAST 18.67 FEET; THENCE SOUTH 37°32'27" EAST 24.17 FEET; THENCE SOUTH 52°27'33" WEST 83.01 FEET; THENCE NORTH 37°32'27" WEST 24.17 FEET; THENCE NORTH 52°27'33" EAST 18.67 FEET; THENCE NORTH 37°32'27" WEST 14.33 FEET; THENCE SOUTH 52°27'33" WEST 4.67 FEET; THENCE NORTH 37°32'27" WEST 70.00 FEET; THENCE NORTH 52°27'33" EAST 4.67 FEET; THENCE NORTH 37°32'27" WEST 14.33 FEET TO THE POINT OF BEGINNING.



Shaded Areas Are Condominium Property
All Else Shown-Master Association Property

All Improvements shown are existing

** Pending receipt of Surveyor's Certificate improvements are not substantially complete.



TRI-STATE LAND SURVEYORS, INC.

8411 BAYMEADOWS WAY SUITE #2, JACKSONVILLE, FLORIDA 32256 (904) 731-7235

LEGEND

- ■ CONC. MON
- ● IRON COR. (SET WITH CAP # LB 4921)
- -X- FENCE
- O IRON COR. (FOUND)
- ⊗ CROSS CUT
- B.R.L. BUILDING RESTRICTION LINE
- ESM'T EASEMENT
- R/W RIGHT-OF-WAY
- COV. COVERED AREA
- ℄ CENTERLINE
- A/C AIR CONDITIONING PAD
- (R) RADIAL DISTANCE
- CONCRETE

BEARINGS BASED ON R/W LINE AS SHOWN.

THIS SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP.

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SCALE: 1" = 40'

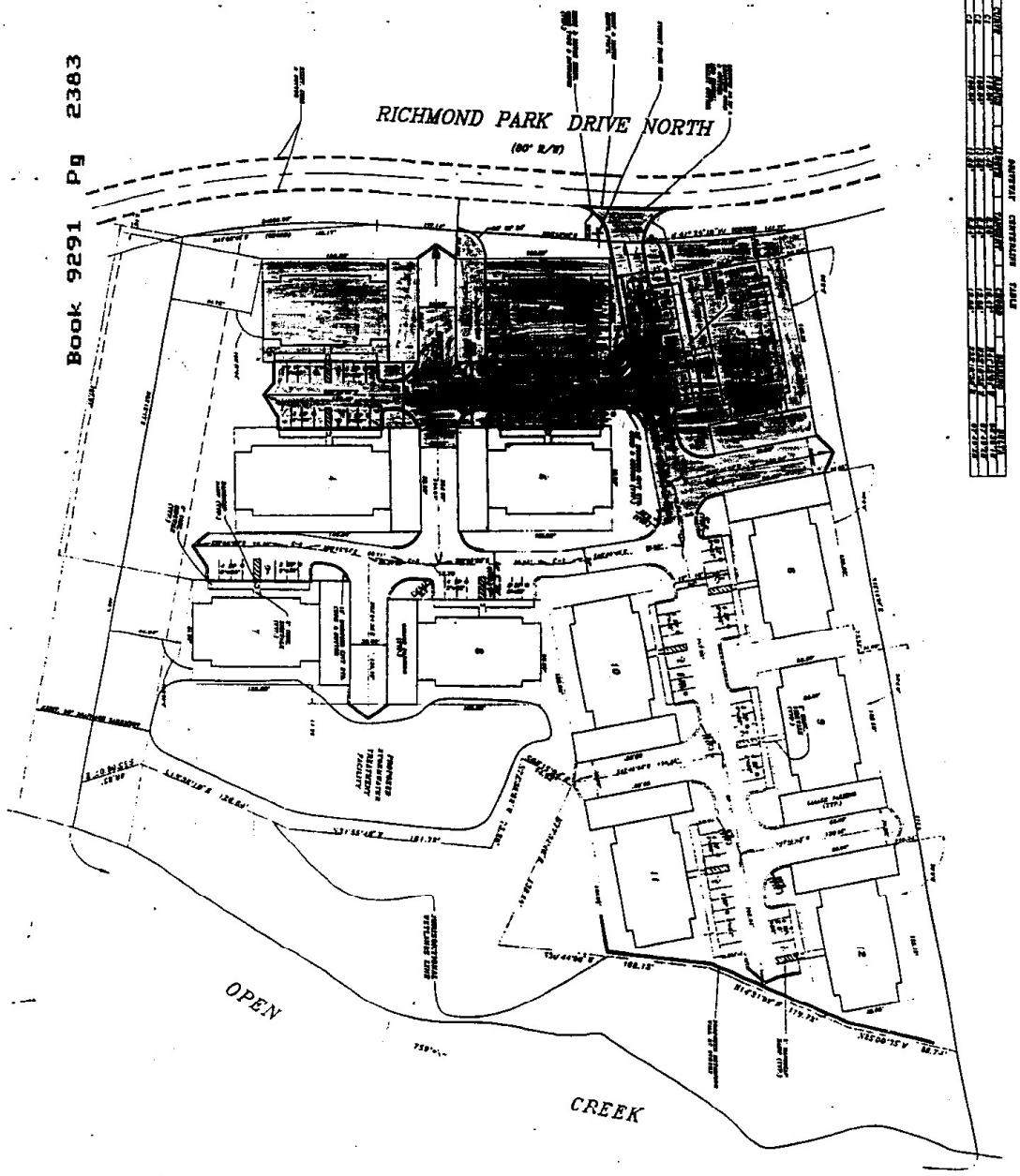
DATE: 3-14-1998

LARRY G. EDDY, P.L.S. No. 4144
GLENN M. BROADSTREET, P.S.M. NO. 5814

REGISTERED SURVEYOR AND MAPPER, STATE OF FLORIDA (LB #4921)



EXHIBIT C

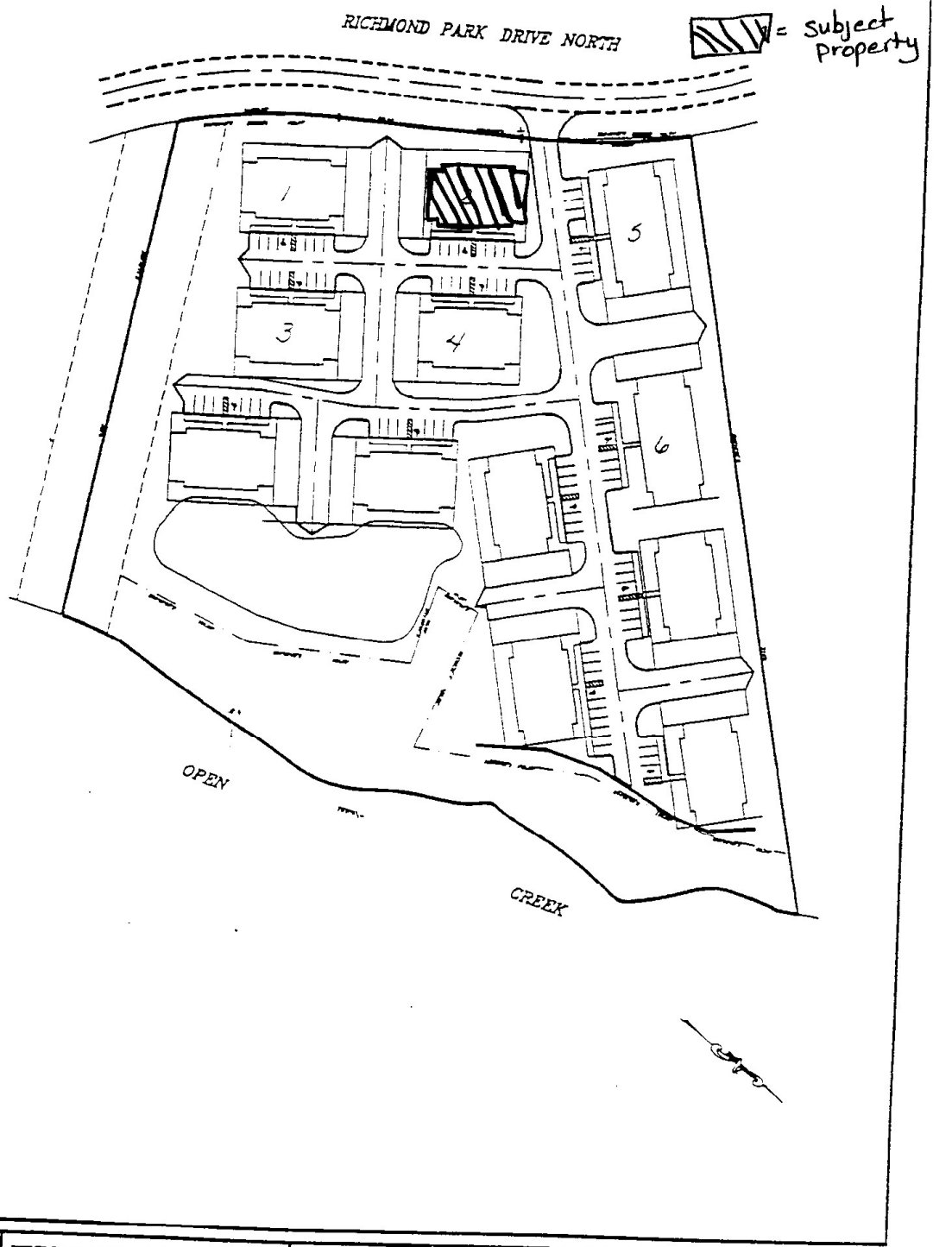


WINDSOR POINTE II, A CONDOMINIUM

Developer: Windsor Pointe of Jacksonville, Inc.

Shaded areas are existing improvements
All other areas are proposed improvements.

SHEET 1 OF 7	DRAWING NO. C-1	WINDSOR POINTE CONDOMINIUMS	Hill, Boring, Dunn & Associates, Inc.	DESIGNED BY: S.KIRKLAND DRAWN BY: M.B.D. CHECKED BY: V. DUNN SCALE: 1"= 40' DATE: OCTOBER 1998 PROJ. NO.: 9510-509	REVISIONS NO | DATE | DESCRIPTION
		GEOMETRY PLAN		REGISTERED ENGINEER	



WINDSOR POINTE CONDOMINIUMS

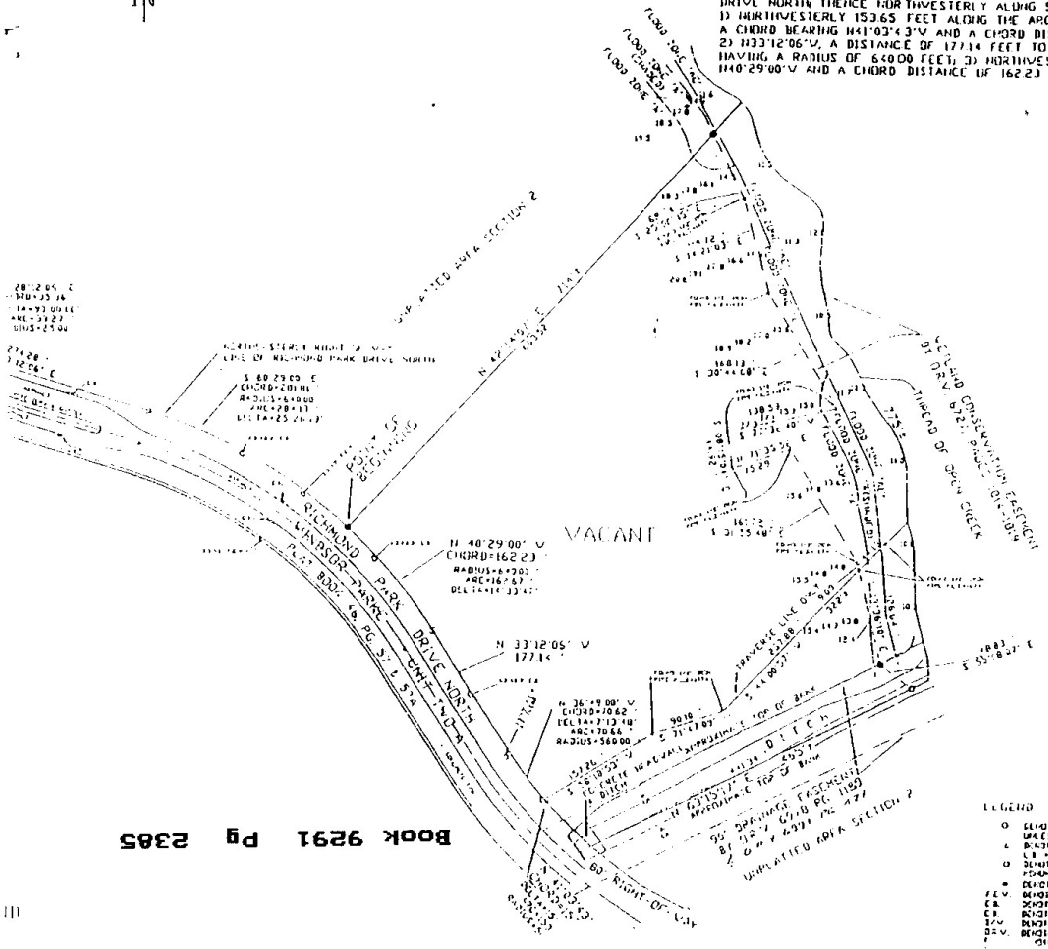
Hill, Boring, Dunn & Associates, Inc.

REVISIONS
NO. | DATE | DESCRIPTION

Book 9291 Pg 2385

SITE PLAN FOR WINDSOR POINTE
Community

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE [illegible] OF THE NORTHEASTERLY RIGHT-OF-WAY LINE OF RICHMOND PARK DRIVE NORTH (AN 80 FOOT PUBLIC RIGHT-OF-WAY) AS PLATTED BY WINDSOR PARKE UNIT NO. A AS RECORDED IN PLAT BOOK 46, PAGES 57 AND 57A OF THE CURRENT PUBLIC RECORDS OF SAID DUVAL COUNTY, WITH THE EASTERLY RIGHT-OF-WAY LINE OF HODGES BOULEVARD (COUNTY ROAD NO. 3008, A 200 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED); THENCE SOUTHEASTERLY ALONG THE AFORESAID NORTHEASTERLY RIGHT-OF-WAY LINE OF RICHMOND PARK DRIVE NORTH THE FOLLOWING THREE COURSES: 1) SOUTHEASTERLY 39.27 FEET ALONG THE ARC OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 25.00 FEET, A CHORD BEARING S28°12'06"E AND A CHORD DISTANCE OF 35.36 FEET TO THE POINT OF TANGENCY OF SAID CURVE; 2) S73°12'06"E, A DISTANCE OF 274.28 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 640.00 FEET; 3) SOUTHEASTERLY 284.13 FEET ALONG THE ARC OF SAID CURVE, A CHORD BEARING S60°29'09"E AND A CHORD DISTANCE OF 281.81 FEET TO THE POINT OF BEGINNING; THENCE N42°14'07"E, RADIAL TO SAID CURVE, A DISTANCE OF 7.14 FEET MORE OR LESS (66352 FEET TO A MEANDER CORNER) TO THE THREAD OF OPEN CREEK; THENCE SOUTHEASTERLY ALONG THE THREAD OF SAID OPEN CREEK AS IT MEANDERS A DISTANCE OF 775 FEET MORE OR LESS, SAID OPEN CREEK BEING MEANDERED BY THE FOLLOWING NINE COURSES: 1) S25°00'35"E, A DISTANCE OF 88.74 FEET; 2) S14°21'03"E, A DISTANCE OF 119.72 FEET; 3) S30°44'08"E, A DISTANCE OF 168.13 FEET; 4) S77°32'40"V, A DISTANCE OF 130.59 FEET; 5) S00°15'04"E, A DISTANCE OF 44.92 FEET; 6) N71°35'52"E, A DISTANCE OF 75.29 FEET; 7) S31°55'48"E, A DISTANCE OF 161.72 FEET; 8) S13°36'10"E, A DISTANCE OF 126.64 FEET; 9) S55°08'07"E, A DISTANCE OF 48.83 FEET, THE LAST DESCRIBED NINE COURSES BEING THE SOUTHWESTERLY BOUNDARY OF THE CONSERVATION EASEMENT DESCRIBED IN OFFICIAL RECORDS VOLUME 6727, PAGES 1814 THROUGH 1819 OF THE CURRENT PUBLIC RECORDS OF THE AFORESAID DUVAL COUNTY; THENCE S63°15'17"V, A DISTANCE OF 65 FEET MORE OR LESS (44.34 FEET FROM THE LAST DESCRIBED MEANDER CORNER) TO AN INTERSECTION WITH THE AFORESAID NORTHEASTERLY RIGHT-OF-WAY LINE OF RICHMOND PARK DRIVE NORTH; THENCE NORTHWESTERLY ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE THE FOLLOWING THREE COURSES: 1) NORTHWESTERLY 153.65 FEET ALONG THE ARC OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 560.00 FEET, A CHORD BEARING N41°03'43"V AND A CHORD DISTANCE OF 153.17 FEET TO THE POINT OF TANGENCY OF SAID CURVE; 2) N33°12'06"V, A DISTANCE OF 177.14 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 640.00 FEET; 3) NORTHWESTERLY 162.57 FEET ALONG THE ARC OF SAID CURVE, A CHORD BEARING N40°29'00"V AND A CHORD DISTANCE OF 162.23 FEET TO THE POINT OF BEGINNING CONTAINING 8.4 ACRES MORE OR LESS



NOTES CONTINUED:

8) THIS PROPERTY IS SUBJECT TO COVENANTS & RESTRICTIONS RECORDED IN O.R.V. 7439, PG. 1161; RESOLUTION RECORDED IN O.R.V. 6251, PG. 828; SETTLEMENT AGREEMENT IN O.R.V. 6251, PG. 817; ASSIGNMENT RECORDED IN O.R.V. 6388, PG. 1180; ASSIGNMENT RECORDED IN O.R.V. 7439, PG. 1134; ASSIGNMENT OF RIGHTS RECORDED IN O.R.V. 7439, PG. 1140; CONSERVATION EASEMENT IN O.R.V. 6727, PG. 1814; DRAINAGE EASEMENT RECORDED IN O.R.V. 6738, PG. 1189 & RE-RECORDED IN O.R.V. 6781, PG. 431.

9) THIS PROPERTY IS NOT SUBJECT TO EXHIBIT "B" LINE ROADWAY EASEMENTS DESCRIBED IN O.R.V. 6769, PG. 2186 DUE TO ITS SELF TERMINATION BY THE PLATTING OF RICHMOND PARK DRIVE NORTH BY PLAT BOOK 46, PGS. 57 & 57A.

10) EASEMENTS DESCRIBED IN EXHIBITS "C" & "D" O.R.V. 6769, PG. 2184 AND DRAINAGE EASEMENT RECORDED IN O.R.V. 5511, PG. 1576 DO NOT BORDER ON, ENCROACH UPON, OR CROSS THIS PROPERTY.

NOTES:

1) THIS IS A BOUNDARY SURVEY.
2) BEARINGS ARE BASED ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF RICHMOND PARK DRIVE NORTH AS SHOWN HEREON.
3) NO UNDERGROUND UTILITIES WERE LOCATED OR SHOWN BY THIS SURVEY.
4) ONLY ABOVE GROUND INDICATORS OF POTENTIAL UTILITIES SHOWN WERE LOCATED BY THIS SURVEY.
5) THIS PROPERTY APPEARS TO LIE IN FLOOD ZONE "A" WHICH IS THE AREA OF THE 100 YEAR FLOOD, THE 500 YEAR FLOOD ZONE "B" IDENTIFIED WHICH IS THE AREA OF THE 500 YEAR FLOOD AND FLOOD ZONE "X" WHICH IS THE AREA OF THE 100 YEAR FLOOD BASE FLOOD ELEVATIONS SHOWN BY FLOOD MAPS REVISED AUGUST 28 1989 COMMUNITY PANEL NO. 120077 0233 E & 0235 E.
6) THE PROPERTY IS SUBJECT TO A 95' DRAINAGE EASEMENT RECORDED IN O.R.V. 6898, PG. 1189 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY.
7) ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NATIONAL GEODETIC VERTICAL DATUM OF 1929.

SEE SHEET 2 FOR LEGAL DESCRIPTION

SEE SHEET 3 FOR CERTIFICATION & ADDITIONAL INFORMATION

SEE SHEET 4 FOR REVISED TECHNICAL NOTES 5, 6 AND 7 AND NOTE #10

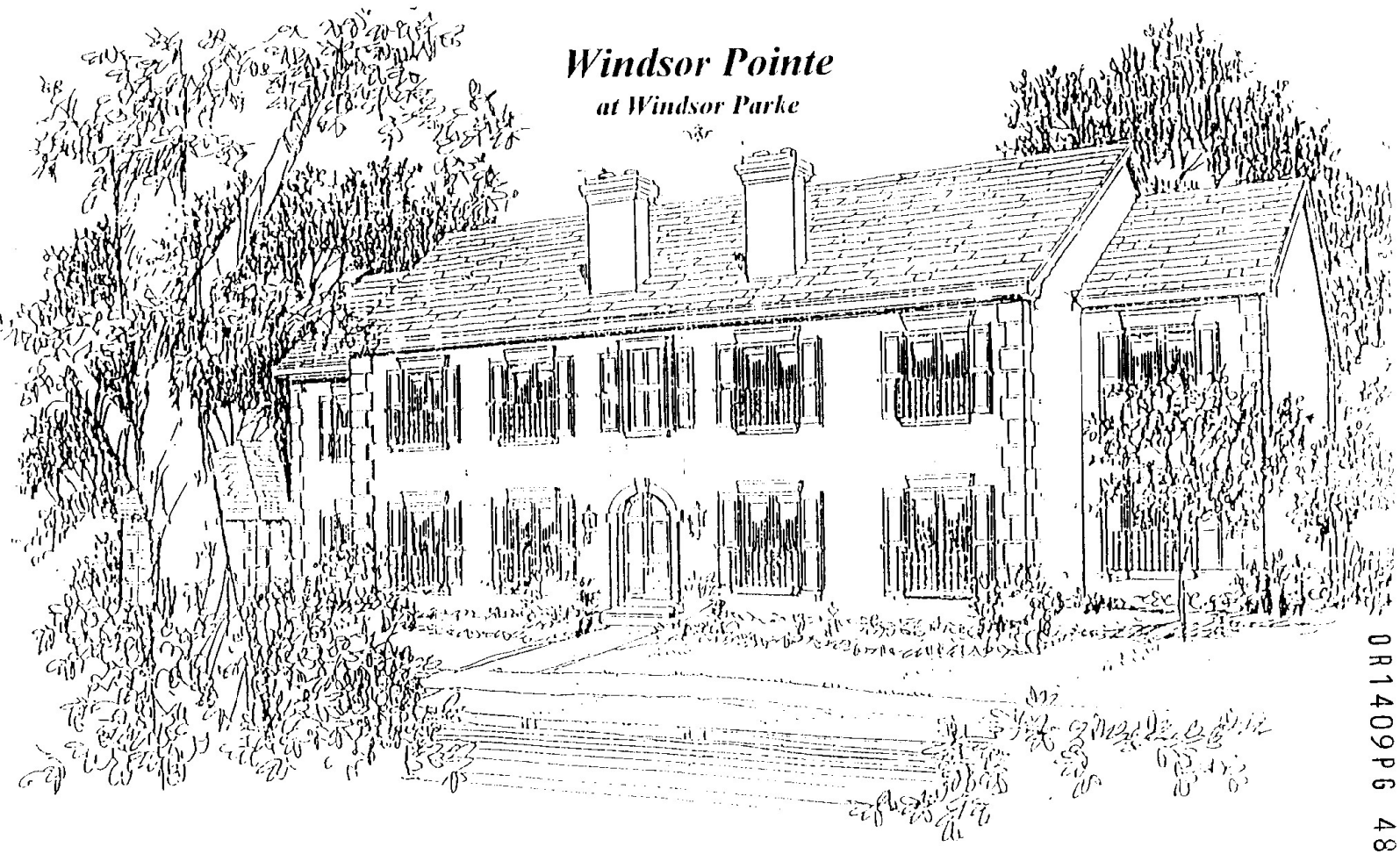
LEGEND

- O DENOTES FOUND 1/2" REBAR PLS #4127 UNLESS NOTED
- ▲ DENOTES FOUND NAIL & PLATE L.B. #1868
- ⊡ DENOTES FOUND 4"X4" CONCRETE MONUMENT L.B. #1868 PLS #4127
- ● DENOTES SET 1/2" REBAR PLS #4127
- F.P.L. DENOTES FIBERGLASS ELECTRIC VAULT
- E.B. DENOTES ELECTRIC BOX
- C.B. DENOTES CATCH BASIN
- S.W. DENOTES SIDEWALK
- O.R.V. DENOTES OFFICIAL RECORDS VOLUME
- P.O.B. DENOTES POINT OF BEGINNING

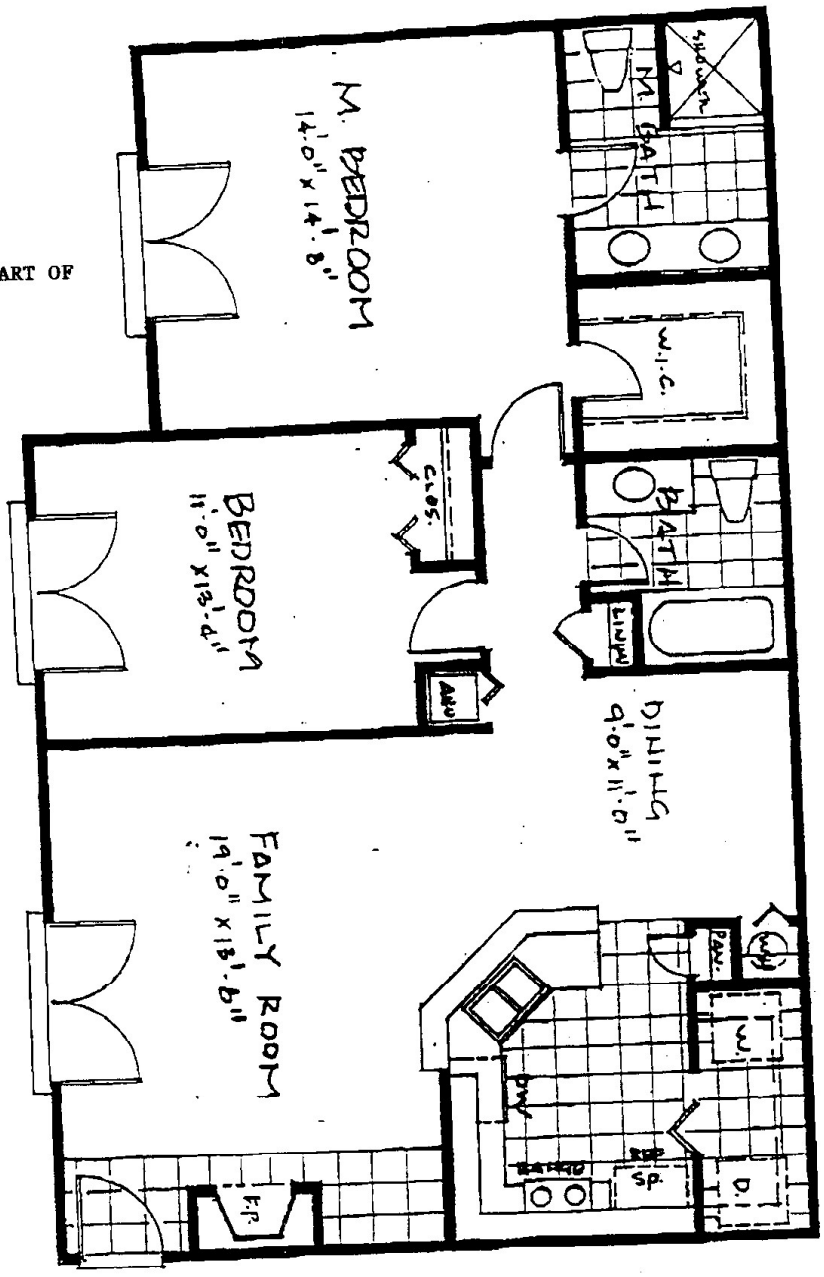
I HEREBY CERTIFY TO [illegible]

THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS, PURSUANT TO SECTION 472.027 FLORIDA STATUTES AND CHAPTER 61G17-6 FLORIDA ADMINISTRATIVE CODE.

Robert D. Taylor
FLORIDA REGISTERED SURVEYOR AND MAPPER NO. 3563
STATE OF FLORIDA
DATED: FEBRUARY 13, 1996


Windsor Pointe
at Windsor Parke

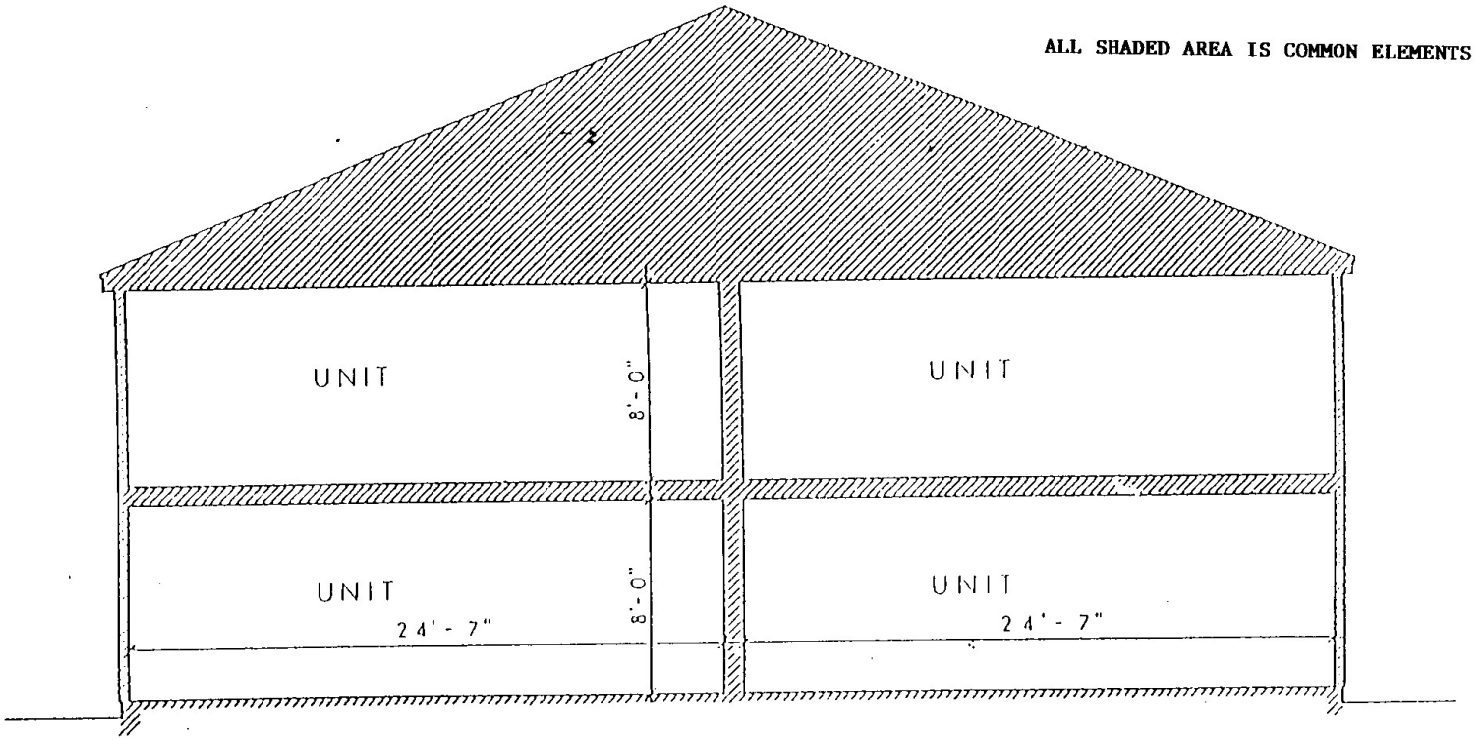
ALL SHOWN ARE PART OF UNIT



UNIT FLOOR PLAN

BUILDING CROSS SECTION

ALL SHADED AREA IS COMMON ELEMENTS



BUILDING CROSS SECTION

Book 9291 Pg 2388

WINDSOR POINTE II, A CONDOMINIUM

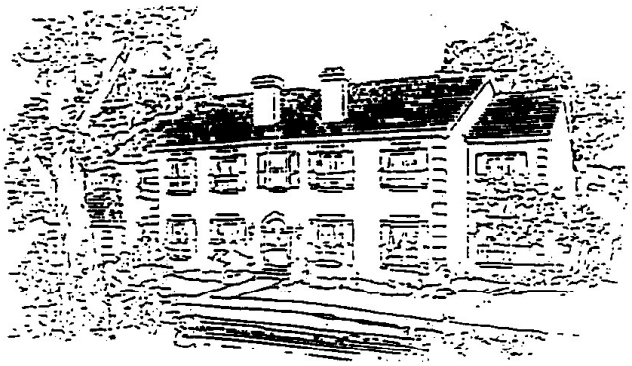
Designation of Street Addresses at: **13715 Richmond Park Drive, Unit #_____**

Second Floor

205

First Floor

201



Second Floor

206

First Floor

202

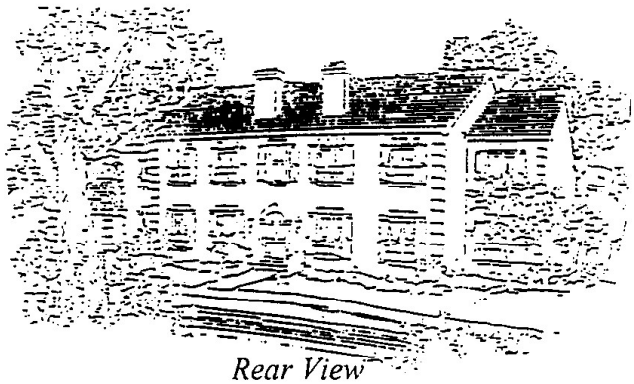
Front view--facing roadway

Second Floor

208

First Floor

203



Second Floor

207

First Floor

204

Rear View

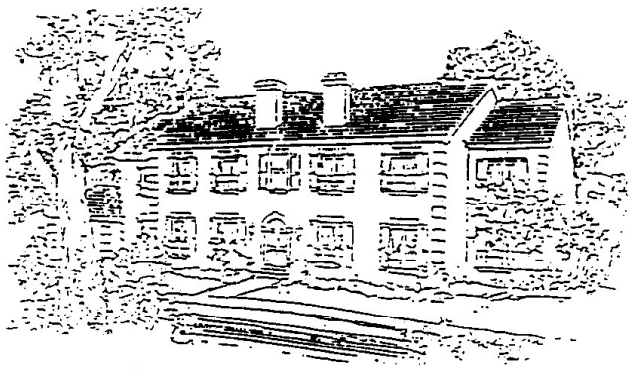
EXHIBIT D

WINDSOR POINTE II, A CONDOMINIUM

Designation of Unit Designations

Second Floor
Unit 25

First Floor
Unit 21



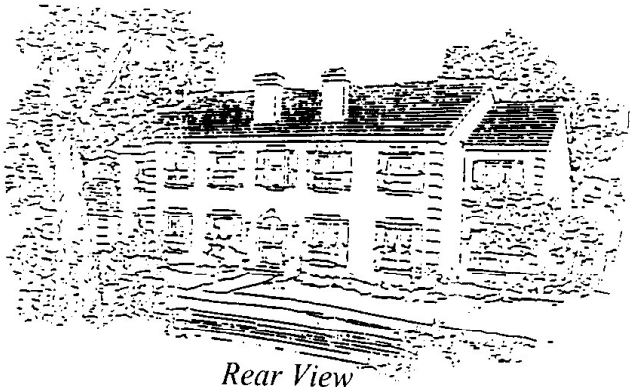
Second Floor
Unit 26

First Floor
Unit 22

Front view--facing roadway

Second Floor
Unit 28

First Floor
Unit 23



Second Floor
Unit 27

First Floor
Unit 24

Rear View