

## DECLARATION OF CONDOMINIUM

- I. Definitions:** As used in this Declaration of Condominium and By-Laws attached hereto, and all amendments thereto, unless the context otherwise requires, the following definitions shall prevail:
- A. **Declaration, or Declaration of Condominium, or Enabling Declaration,** means this instrument, as it may be from time to time amended.
  - B. **Association or Corporation,** means Lake Clarke Gardens Condominium, INC., a Non-profit Corporation, being the entity responsible for the operation of the Condominium.
  - C. **By-Laws,** means the By-Laws of Lake Clarke Gardens Condominium, INC., a Non-profit Corporation, as they exist from time to time.
  - D. **Common Elements,** means the portions of the Condominium property not included in the units.
  - E. **Limited Common Elements,** means and includes those common elements, which are reserved for the use of certain units, to the exclusion of all other units.
  - F. **Condominium,** means the form of ownership of Condominium property under which units of improvements are subject to ownership by different owners, and there is appurtenant to each unit, as part thereof, an undivided share in the common elements.
  - G. **Condominium Act,** means and refers to the Condominium Act of the State of Florida (F. S. 711 Et Seq.), as the same may be amended from time to time.
  - H. **Common Expenses,** means the expenses for which the unit owners are liable to the Association.
  - I. **Common Surplus,** means the excess of all receipts of the Association from this Condominium, including but not limited to assessments, rent, profits and revenues on account of the common elements of this Condominium, over the amount of common expenses of this Condominium.
  - J. **Condominium Property,** means and includes the land in a Condominium, whether or not contiguous, and all improvements thereon, and all easements and rights appurtenant thereto intended for use in connection with the Condominium.
  - K. **Assessment,** means a share of the funds required for the payment of common expenses which, from time to time, is assessed against the unit owner.
  - L. **Condominium Parcel,** means a unit, together with the undivided share in the common elements, which is appurtenant to the unit.
  - M. **Condominium Unit,** or Unit, means a part of the Condominium property which is to be subject to private ownership.
  - N. **Unit Owner, or Owner of a Unit, or Parcel Owner,** means the owner of a Condominium Parcel.
  - O. **Developer,** means FLA-MANGO, INC., a Florida Corporation, its successors or assigns.

P. **Institutional Mortgagee**, means a Bank, Savings and Loan Association, Insurance Company or Union Pension Fund, authorized to do business in the State of Florida, or an agency of the United States Government. The mortgage may be placed through a Mortgage or Title Company.

Q. **Occupant**, means the person or persons, other than the Unit Owner, in possession of a Unit.

R. **Condominium Documents**, means this Declaration, the By-Laws, and all Exhibits annexed hereto, as the same may be amended from time to time.

S. **Unless the context otherwise requires**, all other terms used in this Declaration shall be assumed to have meaning attributed to said term by Section 3 of the Condominium Act.

T. **Long-Term Lease**, means and refers to the interest of the Association in and to the recreational area and facilities.

## **II. NAME**

The name by which this Condominium is to be identified, is:

**No. Lake Clarke Gardens Condominium**

## **III. Identification of Units**

The Condominium property consists essentially of thirty six (36) units in all, and for the purpose of identification, all units in the building located on said condominium property are given identifying numbers and delineated on the Survey Exhibits, collectively identified as "Exhibit No. 1", attached hereto and made a part of this Declaration. No unit bears the same identifying number as does any other unit. The aforesaid identifying number as to the unit is also the identifying number as to the parcel. The said Exhibit No. 1 also contains a survey of the land, graphic description of the improvements in which the units are located, and a plot plan, and together with this Declaration, they are in sufficient detail to identify the location, dimensions and size of the common elements and of each unit, as evidenced by the Certificate of the Registered Land Surveyor hereto attached. The legend and notes contained within said Exhibit are incorporated herein and made a part hereof by reference.

The aforesaid building was constructed substantially in accordance with the Plans and Specifications prepared by Emily and Harold Obst, AIA, under plan No. 6207, dated December 8<sup>th</sup>, 1967, copies of which Plans and Specifications shall be filed with the Association, and as a depository for safe keeping of said Plans and Specifications, with First Federal Savings and Loan Association of West Palm Beach, and First National Bank of Hollywood.

## **IV. OWNERSHIP OF COMMON ELEMENTS**

Each of the unit owners of the Condominium shall own an undivided interest in the common elements and limited common elements, and the undivided interest, stated as percentages of such ownership in the said common elements and the limited common elements, is set forth on Exhibit A, which is annexed to this Declaration and made a part hereof.

The fee title to each Condominium parcel shall include both the Condominium unit and the above respective undivided interest in the common elements, said undivided interest in the common elements to be

deemed to be conveyed or encumbered with its respective condominium unit, even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the condominium unit. Any attempt to separate the fee title to a condominium unit from the undivided interest in the common elements appurtenant to each unit shall be null and void. The term “common elements”, when used throughout this Declaration, shall mean both common elements and limited common elements, unless the context otherwise specifically requires.

## **V. VOTING RIGHTS**

There shall be one person, with respect to each unit ownership, who shall be entitled to vote at any meeting of the unit owners – such person shall be known (and is hereinafter referred to) as a Voting Member. If a unit is owned by more than one person, the owners of said unit shall designate one of them as the Voting Member, or in the case of a Corporate unit owner, an officer or an employee thereof shall be the Voting Member. The designation of the Voting Member shall be made, as provided by and subject to, the provisions and restrictions set forth in the By-Laws of the Association. The total number of votes shall be equal to the total number of units in the Condominium and each Condominium unit shall have no more and no less than one equal vote in the Association. If one individual owns two Condominium parcels, he shall have two votes. The vote of a Condominium unit is not divisible.

## **VI. COMMON EXPENSE AND COMMON SURPLUS**

The common expenses of the Condominium, including the obligation of each unit owner under the Long-Term Lease, as set forth in paragraph XVII herein. Shall be shared by the unit owners, as specified and set forth in Exhibit A attached hereto. The foregoing ratio of sharing common expenses and assessments shall remain, regardless of the purchase price of the Condominium parcels, their location, or building square footage included in each Condominium unit.

Any common surplus of the Condominium shall be owned by each of the unit owners in the same proportion as their percentage ownership interest in the common elements, - common surplus being the excess of all the receipts of the Association from this Condominium, including but not limited to assessments, rents, profits and revenues on account of the common elements of this Condominium, over the amount of common expenses of this Condominium.

## **VII. METHOD OF AMENDMENT OF DECLARATION**

This Declaration may be amended at any regular or special meeting of the unit owners of this Condominium, called and convened in accordance with the By-Laws, by the affirmative vote of the Voting Members, casting not less than a majority of the total vote of the members of the Association.

All amendments shall be recorded and certified as required by the Condominium Act. No Amendment shall change any Condominium parcel nor a Condominium unit’s proportionate share of the common expenses or common surplus; nor the voting rights appurtenant to any unit, unless the record owner(s) thereof, and all record owners of mortgages thereon, or other voluntarily placed liens thereon, shall join the execution of the Amendment. No Amendment shall be passed which shall impair or prejudice the rights and priorities of any mortgages, or impair or prejudice the security and rights of the Lessor’s interest under the long-term lease. No Amendment shall change the provisions of this Declaration with respect to Institutional Mortgagees or the Lessor under the Long Term Lease, without the written approval of all Institutional Mortgagees of record and the Lessor under the Long Term Lease; nor shall the provisions of Article XII of this Declaration be changed without the written approval of all Institutional Mortgagees of record.

## **VIII . BY-LAWS**

The operation of the Condominium property shall be governed by By-Laws, which are set forth in a document entitled "By-Laws of LAKE CLARKE GARDENS CONDOMINIUM, INC., A Florida Corporation not for profit," which is annexed to this Declaration, marked "Exhibit No. 2," and made a part hereof.

No modification of or Amendment to the BY-Laws of said Association shall be valid unless set forth in or annexed to a duly recorded Amendment to this Declaration. The By-Laws may be amended in a manner provided for therein, but no Amendment to said By-Laws shall be adopted which would affect or impair the validity or priority of any mortgage covering any condominium parcel(s), or the Long-Term Lease, without the written approval of all Institutional Mortgagees of record or the Lessor under the Long-Term Lease.

## **IX . THE OPERATING ENTITY**

The name of the Association responsible for the operation of the Condominium is set forth in Article VIII hereinabove; said Association is a non-profit Florida Corporation, organized and existing pursuant to the Condominium Act. The said Association shall have all of the powers and duties set forth in the Condominium Act, as well as all of the powers and duties granted to or imposed upon it by this Declaration, the By-Laws of the Association, and its Articles of Incorporation, copy of which Articles of Incorporation are attached hereto and marked "Exhibit No. 3," and made a part hereof, and Amendment to Articles of Incorporation, copy which is attached hereto, marked "Exhibit No. 3-A," and made a part hereof.

Every owner of a Condominium parcel, whether he has acquired his ownership by purchase, by gift, conveyance or transfer by operation of law, or otherwise, shall be bound by the By-Laws of said Association, the Articles of Incorporation of the Association and Amendment thereto, and by provisions of this Declaration.

## **X . ASSESSMENTS**

The Association, through its Board of Directors, shall have the power to fix and determine, from time to time, the sum or sums necessary and adequate to provide for the common expenses of the Condominium property, and such other assessments as are specifically provided for in this Declaration and By-Laws attached hereto. The procedure for the determination of such assessments shall be as set forth in the By-Laws of the Association.

The common expenses shall be assessed against each Condominium parcel owner, as provided for in Article VI of this Declaration. Any monthly Maintenance Fee (the term "Maintenance Fee" includes the stipulated Reserve Fund Amount) not paid by the tenth day following the specified due date shall be subject to a penalty of TEN DOLLARS (\$10.00). An additional TEN DOLLARS (\$10.00) per month shall be assessed for each month the payment remains in arrears up to three months, when our attorney will be instructed to have a lien placed on the property.

The Association shall have a lien on each Condominium parcel for any unpaid assessments, together with interest thereon, against the unit owner of such Condominium parcel, together with a lien on all tangible personal property located within said unit, except that such lien upon aforesaid tangible personal property shall be subordinate to prior bona fide liens of record. Reasonable attorney's fees incurred by the Association incident to the collection of such assessment or the enforcement of such lien, together with all sums advanced and paid by the Association for taxes and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, shall be payable by the unit owner and secured by such lien. The Association's liens shall also include those sums

advanced on behalf of a unit owner in payment of his obligation under the Long-Term Lease. The Board of Directors may take such action as they deem necessary to collect assessments by personal action or by enforcing and foreclosing said lien, and may settle and compromise the same if in the best interests of the Association. Said lien shall be effective as and in the manner provided for by the Condominium Act, and shall have the priorities established by such Act. The Association shall be entitled to bid at any sale held pursuant to a suit to foreclose an assessment lien, and to apply as a cash credit against its bid, all sums due the Association covered by the lien enforced. In case of such foreclosure, the unit owner shall be required to pay a reasonable rental for the Condominium parcel, and the Plaintiff in such foreclosure shall be entitled to the appointment of a Receiver to collect same from the unit owner and/or occupant.

Where the mortgagee of an institutional first mortgage of record, or other purchaser of a Condominium unit, obtains title to a Condominium parcel as a result of foreclosure of the institutional first mortgage, or when an institutional first mortgagee of record accepts a deed to said Condominium parcel in lieu of foreclosure, or where the Lessor under the Long-Term Lease obtains title as a result of foreclosure of the lien under said Lease or accepts a deed to a Condominium parcel in lieu of such foreclosure, or other purchaser obtains title to a Condominium parcel as a result of foreclosure of the aforesaid Lessor's lien, such acquirer of title, his successors and assigns, shall not be liable for the share of common expenses or assignment by the Association pertaining to such Condominium parcel, or chargeable to the former unit owner of such parcel, which became due prior to acquisition of title as a result of the foreclosure of the acceptance of such Deed in lieu of foreclosure. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectable from all the unit owners, including such acquirer, his successors and assigns.

Any person who acquires an interest in a unit except through foreclosure of an Institutional First Mortgage of record, or of the Lessor's lien under the Long-Term Lease (or Deed in lieu thereof), as specifically provided in the paragraph immediately preceding, including without limitation, persons acquiring title by operation of law, including purchasers at judicial sales, shall not be entitled to occupancy of the unit or enjoyment of the common elements until such time as all unpaid assessments due and owing by the former unit owner have been paid.

The Association, acting through its Board of Directors, shall have a right to assign its claim and lien rights for the recovery of any unpaid assessments to the Developer, or any unit owner or group of unit owners, or to any third party.

## **XI . PROVISIONS RELATING TO SALE OR RENTAL OR OTHER ALIENATION OR MORTGAGING OF CONDOMINIUM UNITS**

### **A. SALE OR RENTAL OF UNITS** - Association to have First Right of Refusal; Leasing Restricted

Notwithstanding anything in this Declaration, the Articles of Incorporation, By-Laws or Rules and Regulations of the Association to the contrary, in no event may any unit owner have an ownership interest in, of or to more than two (2) units within the entire Lake Clarke Gardens Condominium community operated and administered by the Association. An ownership interest shall include all ownership interests including, without limitation, individual, joint, tenants in common, or any affiliation or relationship as a shareholder, officer, partner, director, trustee, beneficiary or otherwise of, with, or to any entity or trust having an ownership interest in or to any unit.

In the event any unit owner wishes to sell his unit, the Association shall have the option to purchase said unit, upon the same conditions as are offered by the unit owner to a third person. Any attempt to sell said unit without the prior offer to the Association or otherwise in violation of the provisions of this Declaration shall be deemed a breach of this Declaration and shall be wholly null and void, and shall confer no title or interest whatsoever upon the intended purchaser.

If a unit owner is considering the sale of his unit, prior to listing or offering the unit for sale, the unit owner must furnish the Association with a completed Unit for Sale Notification on such form as required by the Board of Directors from time to time. Such Unit for Sale Notification shall be prior to and in addition to, and not in lieu of, the written notice the unit owner is required to provide the Association concerning an offer he has received, or wishes to accept or proposes to make, as described below in this Article.

Should a unit owner wish to sell his Condominium parcel (which means unit, together with the undivided share of the common elements appurtenant thereto), he shall, before making or accepting any offer to purchase or sell his Condominium parcel, deliver to the Board of Directors of the Association, a written notice containing the terms of the offer he has received or which he wishes to accept, or proposes to make, the name and address of the person(s) to whom the proposed sale or transfer is to be made, and two bank references, and three individual references – local, if possible, and such other information (to be requested within five days from receipt of such notice) as may be required by the Board of Directors of the Association. The Board of Directors of the Association is authorized to waive any or all of the references aforementioned.

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

The Board of Directors of the Association, within ten days after receiving such notice and such supplemental information as is required by the Board of Directors, shall either consent to the transaction specified in said notice, or by written notice to be delivered to the unit owner's unit, (or mailed to the place designated by the unit owner in his notice), designate the Association, one or more persons other than unit owners, or any other person(s) satisfactory to the Board of Directors of the Association, who are willing to purchase, upon the said terms as those specified in the unit owner's notice, or object to the sale to the prospective purchaser for good cause, which cause need not be set forth in the notice from the Board of Directors to the unit owner. However, it shall require the unanimous vote of the Board of Directors in order to object for good cause. The Association shall not unreasonably withhold its consent to any prospective sale.

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

The leasing of a unit shall be restricted as set forth in Article XIII of this Declaration. Every application to sell or lease a unit shall be accompanied by a screening fee in an amount to be determined by the Board of Directors, not to exceed the maximum amount permitted by law.

## **B. MORTGAGE AND OTHER ALIENATION OF UNITS**

1. A unit owner may not mortgage his unit nor any interest therein, without the approval of the Association, except as to an institutional mortgagee, as hereinbefore defined. The approval of any other mortgagee may be upon conditions determined by the Board of Directors of the Association, and said approval, if granted, shall be in recordable form, executed by two officers of the Association.

2. No judicial sale of a unit nor any interest therein, shall be valid, unless:

(a) The sale is to a purchaser approved by the Association, which approval shall be in recordable form, executed by two officers of the Association and delivered to the purchaser; or,

(b) The sale is the result of a public sale with open bidding.

3. Any sale, mortgage or lease which is not authorized pursuant to the terms of the Declaration, shall be void, unless subsequently approved by the Board of Directors, and said approval shall have the same effect as though it had been given and filed of record simultaneously with the instrument it approved.

4. The foregoing provisions of this Article XI shall not apply to transfers by unit owner to any member of his immediate family (viz. – spouse, children or parents) except that the use and occupancy of the unit shall nevertheless be controlled by the provisions of Article XIII of this Declaration and other restrictions of this Declaration, and the By-Laws and Rules of the Association. The word “sell,” in addition to its general definition, shall be defined as including the transferring of a unit owner’s interest by gift, devise or involuntary or judicial sale. In the event that a unit owner dies and his unit is conveyed or bequeathed to some person other than his spouse, children or parents, or if some other person is designated by decedent’s legal representative to receive the ownership of the condominium unit, or if under the laws of descent and distribution of the State of Florida, the condominium unit descends to some person or persons other than the decedent’s spouse, children or parents, the Board of Directors of the Association shall, within thirty (30) days of proper evidence or rightful designation served upon the President or any other officer of the Association, or within thirty (30) days from the date the Association is placed on actual notice of the said devisee or decedent, express its refusal or exception of the individual or individuals so designated as owner of the condominium parcel. If the Board of Directors of the Association shall consent, ownership of the condominium parcel may be transferred to the person or persons so designated, who shall thereupon become the owner of the condominium parcel, subject to the provisions of this Enabling Declaration and the By-Laws of the Association. If, however, the Board of Directors of the Association shall refuse to consent, then the members of the Association shall be given an opportunity during thirty (30) days next after said last above mentioned thirty (30) days, to purchase or to furnish a purchaser for cash, the said condominium parcel, at the then fair market value thereof. Should the parties fail to agree on the value of such condominium parcel, the same shall be determined by an appraiser appointed by the Senior Judge of the Circuit Court in and for the area wherein the Condominium is located, upon ten (10) days notice, on Petition of any party in interest. The expense of appraisal shall be paid by the said designated person or persons, or the legal representative of the deceased owner, out of the amount realized from the sale of such condominium parcel. In the event the then members of the Association do not exercise the privilege of purchasing or furnishing purchaser for said condominium parcel within such period and upon such terms, the person or persons so designated may then, and only in such event, take this title to the condominium parcel, or, such person or persons, or the legal representative of the deceased owner, may sell the said condominium parcel, but such sale be subject in all other respects to the provision of this Enabling Declaration and by the By-Laws of the Association.

5. The liability of the unit owner under these covenants shall continue, notwithstanding the fact that he may have leased, or rented said interest, as provided herein. Every purchaser, tenant or lessee shall take subject to this Declaration and the By-Laws of the Association, as well as the provisions of the Condominium Act.

## **XII . INSURANCE PROVISIONS**

### **A. LIABILITY INSURANCE**

1. The Board of Directors of the Association shall obtain Public Liability and Property Damage Insurance covering all of the common elements of the Condominium, and insuring the Association, and the common owners as its and their interest appear, in such amounts as the Board of Directors of the Association may determine from time to time, provided that the minimum amount of coverage shall be \$100,000 / \$300,000 / \$10,000. Said insurance shall include but not limit the same to water damage, legal liability, hired automobile, non-owned automobile, and off-premises employee coverage's. All Liability Insurance shall contain Cross-Liability Endorsement to cover liabilities of the unit owners as a group to a unit owner. Premiums for the payment of such insurance shall be paid by the Association and charged as a common expense.

### **B. CASUALTY INSURANCE**

1. **Purchase of Insurance:** The Association shall obtain Fire and Extended Coverage Insurance and Vandalism and Malicious Mischief Insurance, insuring all the insurable improvements within the Condominium, including personable Property owned by the Association, in and for the interest of the Association, all unit owners and their mortgages, as their interest may appear, in a Company acceptable to the standards set by the Board of Directors of the Association, in an amount equal to the maximum insurable replacement value, as determined annually by the Board of Directors of the Association. The premiums of such coverage and other expenses in connection with said insurance, shall be paid by the Association and charged as a common expense. The Company or Companies with whom the Association shall place its insurance coverage, as provided in this Declaration, must be good and responsible Companies, authorized to do business in the State of Florida. The institutional first mortgagee owning and holding the first recorded mortgage encumbering a Condominium unit, shall have the right, for so long as it owns and holds any mortgage encumbering a Condominium unit, to approve the policies and the Company or Companies who are the Insurers under the Insurance placed by the Association, as herein provided, and the amount thereof, and the further right to designate and appoint the Insurance Trustee. At such time as the aforesaid institutional first mortgagee is not the holder of a mortgage on a unit, then these rights of approval and designation shall pass to the institutional first mortgagee having the highest dollar indebtedness on units in the Condominium property, and in the absence of the action of said mortgagee, the Association shall have said right without qualification.

2. **Loss Payable Provisions – Insurance Trustee:** All Policies purchased by the Association shall be for the benefit of the Association, all owners, and their mortgages, as their interest may appear. Such Policies shall be deposited with the Insurance Trustee (as hereinafter defined) who must first acknowledge that the Policies and any proceeds thereof will be held in accordance with the terms hereof. Said Policies shall provide that all insurance proceeds payable on account of loss or damage shall be payable to the First National Bank of Hollywood, Florida, - - - - - as Trustee, or to any other Bank in Florida with trust powers, as may be approved by the Board of Directors of the Association, which Trustee is herein referred to as the "Insurance Trustee." The Insurance Trustee shall not be liable for the payment of premiums nor for the renewal or the sufficiency of Policies, nor for the

failure to collect any insurance proceeds, nor for the form or content of the Policies. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid and holds the same in trust for the purposes elsewhere stated herein, and for the benefit of the Association, the unit owners and their respective mortgagees, in the following shares, but the shares need not be set forth upon the records of the Insurance Trustee: -

(a) **Common Elements:** Proceeds on account of damage to common elements – an undivided share for each unit owner, such share being the same as the undivided share in the common elements appurtenant to his unit.

(b) **Condominium Units:** Proceeds on account of condominium units shall be in the following undivided shares: -

(1) **Partial Destruction:** – when units are to be repaired and restored – for the owners of the damaged units in proportion to the cost of repairing the damage suffered by each unit owner.

(2) **Total Destruction of Condominium improvements,** or where “very substantial” damage occurs and the Condominium units are not to be restored, as provided hereinafter in this Article – for owners of all Condominium units, each owner’s share being in proportion to his share in the common elements appurtenant to his condominium unit.

(c) **Mortgages.** In the event a Mortgage Endorsement has been issued as to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner shall be held in trust for the mortgagee and the unit owner, as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired.

(3) **Distribution of Proceeds:** Proceeds of Insurance Policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners and expended or disbursed after first paying or making provision for the payment of the expenses of the Insurance Trustee in the following manner:

(a) **Reconstruction or Repair:** If the damage for which the proceeds were paid is to be repaired and restored, the remaining proceeds shall be paid to defray the cost thereof, as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, all remittances to unit owners and their mortgages being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by him. Said remittance shall be made solely to an institutional first mortgagee when requested by such institutional first mortgagee whose mortgage provides that it has the right to require application of the insurance proceeds to the payment or reduction of its mortgage debt.

(b) **Failure to Reconstruct or Repair:** If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be repaired and restored, the proceeds shall be disbursed to the beneficial owners; remittances to unit owners and their mortgages being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by him. Said remittance shall be made solely to an institutional first mortgagee when requested by such institutional first mortgagee whose mortgage provides that it has the right to require application of the insurance proceeds to the payment of its mortgage debt. In the event of the loss or damage to personal property belonging to the Association, and should the Board of Directors of the Association determine not to

replace such personal property as may be lost or damaged, the proceeds shall be disbursed to the beneficial owners as surplus in the manner elsewhere stated.

(c) **Certificate:** In making distribution to unit owners and their mortgages, the Insurance Trustee may rely upon a Certificate of the Association as to the names of the unit owners and their respective shares of the distribution, approved in writing by an attorney authorized to practice law in the State of Florida, a Title Insurance Company or Abstract Company authorized to do business in the State of Florida. Upon request of the Insurance Trustee, the Association forthwith shall deliver such Certificate.

4. **Loss Within a Single Unit:** If loss shall occur within a single unit or units, without damage to the common elements, the insurance proceeds shall be distributed to the beneficial unit owner(s), remittance to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by him. Said remittance shall be made solely to an institutional first mortgagee when requested by such institutional first mortgagee whose mortgage provides that it has the right to require application of the insurance proceeds to the payment or reduction of its mortgage debt. The unit owner shall thereupon be fully responsible for the restoration of the unit.

5. **Loss Less Than "Very Substantial":** Where a loss or damage occurs to more than one unit, or to the common elements, or to any unit or units and the common elements, but said loss is less than "very substantial" (as hereinafter defined), it shall be obligatory upon the Association and the unit owners to repair, restore, and rebuild the damage caused by such loss. Where such loss or damage is less than "very substantial": -

(a) The Board of Directors of the Association shall promptly obtain reliable and detailed estimates of the cost of repairing and restoration.

(b) If the damage or loss is limited to the common elements, with no, or minimum damage or loss to any individual units, and if such damage or loss to the common elements is less than \$3,000.00 the insurance proceeds shall be endorsed by the Insurance Trustee over to the Association, and the Association shall promptly contract for the repair and restoration of the damage.

(c) If the damage or loss involves individual units encumbered by the institutional first mortgages, as well as the common elements, or if the damage is limited to the common elements alone, but is in excess of \$3,000.00, the insurance proceeds shall be disbursed by the Insurance Trustee for the repair and restoration of the property upon the written direction and approval of the Association, and provided, however, that upon the request of the institutional first mortgagee, the written approval shall also be required of the institutional first mortgagee owning and holding the first recorded mortgage encumbering a condominium unit, so long as it owns and holds any mortgage encumbering a condominium unit. At such time as the aforesaid institutional first mortgage is not the holder of a mortgage on the unit, then this first right of approval and designation shall pass to the institutional first mortgagee having the highest dollar indebtedness on units in the Condominium property. Should written approval be required, as aforesaid, it shall be said mortgagee's duty to give written notice thereof to the Insurance Trustee. The Insurance Trustee may rely upon the Certificate of the Association and the aforesaid institutional first mortgagee, if said institutional first mortgagee's written approval is required, as to the Payee and the amount to be paid from said proceeds. All Payees shall deliver bills and waivers of mechanics' liens to the Insurance Trustee, and execute any Affidavit required by law or by or by the Association, the aforesaid institutional first mortgagee, and Insurance Trustee, and deliver same to the Insurance Trustee. In addition to the foregoing, the

institutional first mortgagee whose approval may be required, as aforescribed, shall have the right to require the Association to obtain a Completion Performance and Payment Bond in an amount and with a Bonding Company authorized to do business in the State of Florida, which are acceptable to said mortgagee.

(d) Subject to the foregoing, the Board of Directors shall have the right and obligation to negotiate and contract for the repair and restoration of the premises.

(e) If the net proceeds of the insurance are insufficient to pay for the estimated cost of restoration and repair (or for the actual cost thereof if the work has actually been done), the Association shall promptly upon determination of the deficiency, levy a special assessment against all unit owners in proportion to the unit owners' share in the common elements, for that portion of the deficiency as is attributable to the cost of restoration of the common elements, and against the individual unit owners for that portion of the deficiency as is attributable to his individual unit; provided, however, that if the Board of Directors find that they cannot determine with reasonable certainty the portion of the deficiency attributable to specific individual damaged unit(s), then the Board of Directors shall levy the assessment for the total deficiency against all of the unit owners in proportion to the unit owners' shares in the common elements, just as though all of said damage had occurred in the common elements. The special assessment funds shall be delivered by the association to the Insurance Trustee and added by the Trustee to the proceeds available for the repair and restoration of the property.

(f) In the event the insurance proceeds are sufficient to pay for the cost of restoration and repair, or in the event the insurance proceeds are insufficient but additional funds are raised by special assessment within ninety (90) days after the casualty, so that sufficient funds are on hand to fully pay for such restoration and repair, then no mortgagee shall have the right to require the application of insurance proceeds to the payment of its loan, provided, however, that this provision may be waived by the Board of Directors in favor of any Institutional First Mortgagee upon request therefore, at any time. To the extent that any insurance proceeds are required to be paid over to such Mortgagee, the unit owner shall be obliged to replenish the funds so paid over, and said unit owner and his unit shall be subject to special assessment for such sum.

6. **“Very Substantial” Damage.** As used in this Declaration, or any other context dealing with this Condominium, the term “very substantial” damage shall mean loss or damage whereby three-fourths (3/4ths) or more of the total unit space in the Condominium is rendered untenable, or loss or damage whereby seventy-five (75%) or more, of the total amount of the insurance coverage (placed as per Article XII B.1.) becomes payable. Should such “very substantial” damage occur, then: -

(a) The Board of Directors of the Association shall promptly obtain reliable and detailed estimates of the cost of repair and restoration thereof.

(b) The provisions of Article XII B.5. (f), shall not be applicable to any Institutional First Mortgagee, who shall have the right, if its mortgage so provides, to require application of the insurance proceeds to the payment or reduction of its mortgage debt. The Board of Directors shall ascertain as promptly as possible, the net amount of insurance proceeds available for restoration and repair.

(c) Thereupon, a meeting of the unit owners of this Condominium shall be called by The Board of Directors of the Association, to be held not later than sixty (60) days after the casualty, to determine the wishes of the unit owners of this Condominium with reference to the abandonment of the Condominium project, subject to the following:

(1) If the net insurance proceeds available for restoration and repair, together with the funds advanced to replace insurance proceeds paid over to the Institutional First Mortgagees, are sufficient to cover the cost thereof, so that no special assessment is required, then the Condominium property shall be restored and repaired, unless two-thirds (2/3rds) of the unit owners of this Condominium shall vote to abandon the Condominium project, in which case the Condominium property shall be removed from the provisions of the law, in accordance with Section 16 of the Condominium Act.

(2) If the net proceeds available for restoration and repair, together with the funds advanced by unit owners to replace insurance proceeds paid over to Institutional First Mortgagees, are not sufficient to cover the cost thereof, so that a special assessment will be required, then if a majority of the unit owners of this Condominium vote against such special assessment and to abandon the Condominium project then it shall be so abandoned, and the property removed from the provisions of the law in accordance with Section 16 of the Condominium Act. In the event a majority of the unit owners of this Condominium vote in favor of the special assessment, the Association shall immediately levy such special assessment, and, thereupon, the Association shall proceed to negotiate and contract for such repairs and restoration, subject to the provisions of Paragraph 5 (c) and (d) above. The special assessment funds shall be delivered by the Association to the Insurance Trustee and added by said Trustee to the proceeds available for the repair and restoration of the property. The proceeds shall be disbursed by the Insurance Trustee for the repair and restoration of the property, as provided in Paragraph 5. (c) above. To the extent that any insurance proceeds are paid over to such mortgagee, and in the event that it is determined not to abandon the Condominium project and to vote a special assessment, the unit owner shall be obliged to replenish the funds so paid over to the mortgagee, and said unit owner and his unit shall be subject to special assessment for such fund.

(d) In the event any dispute shall arise as to whether or not “very substantial” damage has occurred, it is agreed that such a finding made by the Board of Directors of the Association shall be binding upon all unit owners.

7. **Surplus:** It shall be presumed that the first moneys disbursed in payment of cost of repair and restoration shall be from the insurance proceeds; and if there is a balance in the funds held by the Insurance Trustee after the payment of all costs of the repair and restoration, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated.

8. **Certificate:** The Insurance Trustee may rely upon a Certificate of the Association, certifying as to whether or not the damaged property is to be repaired or restored. Upon request of the Insurance Trustee, the Association forthwith shall deliver such Certificate.

9. **Plans and Specifications:** Any repair and restoration must be substantially in accordance with the Plans and specifications for the original building, or as the building was last constructed, or according to the Plans approved by the Board of Directors of the Association, which approval shall not be unreasonably withheld. If any material or substantial change is contemplated, the approval of all Institutional First Mortgagees shall also be required.

10. **Association’s Power to Compromise Claim:** The Association is hereby irrevocably appointed agent for each unit owner, for the purpose of compromising and settling claims arising under Insurance Policies purchased by the Association, and to execute and deliver Releases therefore, upon the payment of claims.

C. **WORKMEN'S COMPENSATION POLICY** to Meet The Requirements of Law.

D. Such other Insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

E. Each individual unit owner shall be responsible for purchasing, at his own expense, Liability Insurance to cover accidents occurring within his own unit, and for purchasing insurance upon his own personal property, and Living Expense Insurance, but all such Insurance must be obtained from an Insurance Company from which the Association obtains coverage against the same risk, liability or peril, if the Association has such coverage, and such Insurance, where applicable, shall contain the same waiver of subrogation, if available, as referred to in Paragraph F. hereafter.

F. If available, and where applicable, the Board of Directors of the Association shall endeavor to obtain Policies which provide that the Insurer waives its right of subrogation as to any claims against unit owners, the Association, and their respective servants, agents and guests.

**XIII USE AND OCCUPANCY**

The owner or lessee of a unit shall occupy and use his apartment unit as a single, family private dwelling, for himself and the adult members of his family and his social guests, and for no other purpose, including business purposes. Therefore, the leasing of units to others as a regular practice for business, speculation, investment or other similar purposes is not permitted. To meet special situations and to avoid undue hardship or practical difficulties, the Board of Directors may grant permission to an owner to lease his unit to a specified lessee for a period of not less than three (3) consecutive months nor more than six (6) consecutive months in any twelve (12) month period. In no event may a unit be leased earlier than two (2) years after the transfer of ownership of that unit or an interest therein, except in the instance of the demise of a unit owner during the period prior to the settlement of that owner's estate. In the case of inheritance of a unit by persons under age fifty-five (55) the heir(s) shall be permitted to rent out the unit in accordance with our rental regulations, but such heir(s) under age fifty-five (55) shall not be permitted to occupy the unit as (a) permanent resident(s). Temporary occupancy for estate settlement purposes shall be limited to a term of three (3) months. No sub-leasing of a unit may be permitted, nor may individual rooms be rented. The Board of Directors may require that a substantial uniform lease form be used for those leases it approves, or may alternatively require any modification of the lease form for such purposes.

The owner or lessee of a unit may occupy and use his apartment unit as a single-family private dwelling, for himself and adult members of his family and his social guests, and for no other purpose. In as much as Lake Clarke Gardens Condominium community is designed and intended as a n adult community, to provide housing primarily for residents who are fifty-five (55) years of age or older, no children under fifteen (15) years of age shall be permitted to reside in any of the units or rooms thereof in this Condominium, except that children may be permitted to visit and temporarily reside for a period not to exceed thirty (30) days cumulatively in any twelve (12) month period. No person under fifty-five years of age shall be permitted to purchase, own, or lease a unit, unless such person is a member of the immediate family of a person fifty-five (55) years of age or older who has an ownership interest in a unit. At least one person fifty-five years or more must be a permanent occupant of each dwelling unit, while any person occupies said dwelling unit. Persons under the age of fifty-five (55) years and more than fifteen (15) years of age may occupy and reside in a dwelling unit as long as at least one of the permanent occupants is fifty-five (55) years of age or older.

Occupants in a leased unit, other than temporary guests for a period of not to exceed thirty (30) days cumulatively in any twelve (12) month period, shall be no more than two (2) in a single bedroom unit and four (4) in a two bedroom unit.

The total number of days a unit may be occupied in the absence of the owner or lessee shall not exceed thirty (30) days cumulatively in any twelve (12) month period. An owner or lessee of a unit permitting a guest to occupy the unit in his absence shall register with the Association, prior to such occupancy, the name of the guest, the intended period of occupancy, and any other information the Association may reasonably require.

If a unit is to be unoccupied for a period of three (3) months or more, the unit owner shall be required to authorize in writing on the approved FORM NO. 1 – “REPRESENTATIVE AUTHORIZATION FORM” – a designated representative who shall make monthly inspections during the owner’s absence.

If this is not done, the Board of Directors shall have the right to have a Board member and an authorized employee make the required monthly inspection. If the latter procedure is necessary, there shall be a service charge of \$10 per inspection.

Names of persons authorized by the unit owners of individual buildings shall be given to the appropriate Building Representative. It is further required that a signed report on approved FORM NO. 2 – “BUILDING INSPECTION FORM” be given by the approved representative of the unit owner to the Building Representative after each monthly inspection has been made. These reports are then to be filed with the Business Office.

The unit owner shall not permit or suffer anything to be done or kept in his unit which will increase the rate of insurance on the Condominium property, or which will obstruct or interfere with the rights of other unit owners, or annoy them by unreasonable noises, or otherwise: nor shall the unit owner commit or permit any nuisance, immoral or illegal act in or about the Condominium property.

No animals or pets of any kind shall be kept in any unit, or on any property of the Condominium.

The unit owner shall not cause anything to be hung, displayed or placed on the exterior walls, doors or windows of the building.

No person shall use the common elements or any part thereof, or a condominium unit, or the condominium property, or any part thereof, in any manner contrary to or not in accordance with such Rules and Regulations pertaining thereto, as from time to time may be promulgated by the Association.

The initial Rules and Regulations are captioned “Building Rules and Regulations,” and are set forth in the By-Laws of the Association, which are annexed hereto as Exhibit No. 2. The said Building Rules and Regulations shall be deemed effective until amended, as provided in the By-Laws.

No amendment to this Article shall operate to retroactively invalidate any lease or occupancy of a unit, which was valid upon the effective date of the amendment. A renewal of a unit lease shall not be considered a new lease for the purpose of this Article.

#### **XIV. MAINTENANCE AND ALTERATIONS**

A. The Board of Directors of the Association may enter into a Contract with any firm, person or corporation, or may join with other Condominium Associations, in contracting for the maintenance and repair of the Condominium property(s), and may contract for or may join with other Condominium Associations in contracting for the management of the Condominium property(s); 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 by the By-Laws to have the approval of the Board of Directors 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 in the Declaration and By-Laws, subject always to the supervision and right of approval of the Board of Directors.

B. There shall be no material alterations or substantial additions to the common elements or limited common elements, except as the same are authorized by the Board of Directors and ratified by the affirmative vote of Voting Members casting not less than seventy-five percent (75%) of the total votes of the members of the Association present at any regular or Special meeting of the unit owners called for that purpose, provided the aforesaid alterations or additions do not prejudice the right of any unit owner, unless his consent has been obtained. The cost of the foregoing shall be assessed as common expenses. Where any alterations or additions as aforesaid are exclusively or substantially exclusively for the benefit of the unit owner(s) requesting same, then the cost of such alterations or additions shall be assessed against and collected solely from the unit owners exclusively or substantially exclusively benefiting, and the assessment shall be levied in such proportion as may be determined as fair and equitable by the Board of Directors of the Association. Where such alterations or additions exclusively or substantially exclusively benefit unit owners requesting same, said alterations or additions shall only be made when authorized by the Board of Directors and ratified by not less than seventy-five percent (75%) of the total votes of the unit owners exclusively or substantially exclusively benefiting therefrom and where said unit owners are ten or less, the approval of all but one shall be required.

C. Each unit owner agrees as follows:

1. To maintain in good condition and repair, his unit and all interior surfaces within or surrounding his unit (such as the surfaces of the walls, ceilings, and floors), whether or not part of the unit or common elements, and to maintain and repair the fixtures and equipment therein, which includes but is not limited to the following where applicable: - air-conditioning and heating units, refrigerators, stoves, fans, hot-water heaters, dishwashers and other appliances, drains, plumbing fixtures and connections, electrical panels and wiring, electric outlets and fixtures, interior doors, windows, screening and glass and fixed and / or sliding glass doors, and pay for such utilities as are separately metered to his unit. Where the unit is carpeted, the cost of replacing carpeting shall be borne by the owner of said unit.

2. Not make or cause to be made any structural addition or alteration to his unit, or to the common elements, without prior consent of the Association and all mortgagees holding a mortgage on his unit.

3. To make no alteration, decoration, repair, replacement or change of the common elements, or to any outside or exterior portion of the building, whether within a unit or part of the common elements; to use only those contractors or sub-contractors within his unit approved by the Board of Directors.

4. To allow the Board of Directors, or the Agents or employees of the Association to enter into any unit for the purpose of maintenance, inspection, repair, replacement of the improvements within the units, or common elements, or to determine in case of emergency circumstances threatening units or the common elements, or to determine compliance with the provisions of this Declaration and the By-Laws of the Association.

5. To show no signs, advertisements or notices of any type on the common elements or his unit and erect no exterior antenna or aerials except as consented to by the Board of Directors of the Association.

D. In the event the owner of a unit fails to maintain it as required herein, or makes any structural addition or alteration without the required written consent, or otherwise violates or threatens to violate the provisions hereof, the Association shall have the right to proceed in a Court of Equity for an injunction to seek compliance with the provisions hereof. In lieu thereof, and in addition thereto, the Association shall have the right to levy an assessment against the owner of the unit, and the unit, for such necessary sums to remove any unauthorized structural addition and repair. Said assessment shall have the same force and effect as all other

special assessments. The Association shall have the further right to have its employees and agents, or any sub-contractors appointed by it, enter the unit at all reasonable hours to do such work as is deemed necessary by the Board of Directors of the Association to enforce compliance with provisions hereof.

E. The Association shall determine the exterior color scheme of the building(s), and all exteriors, and shall be responsible for the maintenance thereof, and no owner shall paint an exterior wall, door, window or balcony, or any exterior surface, or replace anything thereon or affixed thereto, without the written consent of the Association.

F. The Association shall be responsible for the maintenance, replacement, repair of the common elements, and all portions of the Condominium property not required to be maintained, repaired, or replaced by the unit owner(s).

## **XV. LIMITED COMMON ELEMENTS**

Those areas reserved for the use of a certain unit owner or certain unit owners, to the exclusion of other unit owners, are designated as "limited common elements," and are shown and located on the Surveys annexed hereto, as Exhibit No. 1. Any expense for the maintenance, repair, or replacement relating to limited common elements shall be treated as and paid for as part of the common expenses of the Association. Should said maintenance, repair or replacement be caused by the negligence or misuse of a unit owner, his family or guests, servants or invitees, he shall be responsible therefor, and the Association shall have the right to levy an assessment against the owner of said unit, which assessment shall have the same force and effect as all other special assessments. Where the limited common element consists of an exterior porch or room, the unit owner or owners who have the right to the exclusive use of said exterior porch or room, shall be responsible for the maintenance, care and preservation of the paint and surface of the exterior walls, including floor, ceiling within said exterior porch or room, and the maintenance, care, preservation and replacement of the screening on the said porch or room, if the same is screened, and the fixed and/or sliding glass doors in the entrance way to said porch or room.

The Developer shall have the right to construct, at such specific locations with the parking area, as designed in Exhibit No. 1 of this Declaration, at its sole discretion, eighteen (18) carportes, within one (1) year from the date of filing of this Declaration. Each carporte shall bear an identifying letter or number, and no carporte shall bear the same identifying letter or number as any other. Each carporte is a limited common element and the Developer shall have the right to designate the use of a specific carporte to a unit owner for his specific use – said designation shall be made in an instrument of conveyance by the Developer having the same formality as a deed, and which shall be recorded in the Public Records of Palm Beach County, Florida. The unit owner who is designated to have the exclusive use of a carporte may, thereafter, subject to provisions of Article X of this Declaration, sell and assign the exclusive use of said carporte, not only to the purchaser of his unit, but he may sell, convey and assign the exclusive use of said carporte to the unit owner of another unit in this Condominium, subject to the terms hereof. The unit owner who has the right to the exclusive use of a carporte shall be responsible for the maintenance, care and preservation of the said carporte, except the paving within the carporte structure shall be deemed as a part of the common expenses of the Association. The Board of Directors of the Association shall have the right to additionally assess each unit owner who has the exclusive use of a carporte, a specific sum to be paid to the Association, as said Board of Directors determines in its sole discretion, which sum shall be in addition to the assessment of the common expenses of the Condominium, as provided in this Declaration and Exhibits thereto, and notwithstanding the duty of said unit owner who has the exclusive use of a carporte to maintain same, as provided herein, it shall be maintained by the Association at said unit owner's expense, and in the event the regular assessments for the maintenance of said carporte are insufficient, the Board of Directors shall have the right, at any time, to specially assess the unit owner who has the use of a carporte. The provisions of Article XIV. D. shall apply hereto, where a unit owner fails to maintain

the limited common elements assigned to his exclusive use, as required in this Declaration, and as otherwise provided in said Article.

The Parking Area shown on the Survey Exhibits aforescribed, contains sufficient area for the parking of fifty-three (53) vehicles. As to the said fifty-three (53) parking spaces – thirty-two (32) thereof will be assigned by the Association for the exclusive use of unit owners of this Condominium, and said thirty-two (32) parking spaces includes the carporte spaces referred to in the previous paragraph. As to the remaining twenty-one (21) parking spaces, sixteen (16) thereof will be assigned by the Association for the benefit and use of the unit owners of this Condominium and there guests, and the remaining five (5) parking spaces will be assigned by the Association for the use and benefit of unit owners and their guests of No. 14 LAKE CLARKE GARDENS CONDOMINIUM, which Condominium has not yet been created as of the date of this Condominium.

## **XVI. TERMINATION**

This Condominium may be voluntarily terminated in the manner provided for in Section 16 of the Condominium Act, at any time; however, the written consent of the Lessor under the Long-Term Lease shall also be required. In addition thereto, when there has been “very substantial” damage, as defined in Article XII.B.6. above, this Condominium shall be subject to termination, as provided in Article XII.B.6. above and in this event, the consent of the Lessor under the Long-Term Lease shall not be required, and the lien of the Lessor upon this Condominium shall terminate and be discharged. In addition thereto, if the proposed voluntary termination is submitted to a meeting of the unit owners of this condominium pursuant to notice, and is approved in writing within sixty (60) days of said meeting, by three-fourths (3/4 ths.) of the unit owners of this Condominium, and all Institutional Mortgagees, and the Lessor under the Long-Term Lease, then the approving unit owners shall have an option to purchase all the parcels of the other unit owners within a period expiring one-hundred twenty (120) days from the date of such meeting. Such approvals shall be irrevocable until the expiration of the option, and if the option is exercised, the approval shall be irrevocable. The option shall be exercised upon the following terms:-

A. **Exercise of Option:** An Agreement to Purchase, executed by the record owners of the Parcels who will participate in the purchase shall be delivered by personal delivery or mailed by certified mail or registered mail, to each of the record owners of the parcels to be purchased, and such delivery shall be deemed the exercise of the option. The Agreement shall indicate which parcels shall be purchased by each participating owner or group of owners, and shall require the purchase of all parcels owned by owners not approving the termination, but the agreement shall effect a separate contract between each seller and his purchaser.

B. **Price:** The sale price for each apartment shall be the fair market value determined by agreement between the seller and the purchaser within thirty (30) days from the delivery or mailing of such Agreement, and in the absence of agreement as to price, it shall be determined by Appraisers appointed by the Senior Judge of the Circuit Court in and for the area wherein the Condominium is located, on the Petition of the Seller. The expenses of Appraiser shall be paid by the Purchaser.

C. **Payment:** The purchase price shall be paid in cash.

D. **Closing:** The sale shall be closed within thirty (30) days following the determination of the sale price.

## **XVII LONG TERM LEASE**

The Association, as Lessee, has entered into a Long-Term Lease Agreement with HOWARD GREENFIELD, as Lessor.

The leased premises, demised and described in the Long-Term Lease attached hereto as "Exhibit No. 4," are hereby declared to be and constitute a part of the common elements appurtenant to the Association's Condominium property, and all monies due and to become due under the provisions of said Long-Term Lease, including without limitation, rent and such other items as are specified in said Lease, are and shall continue to be for the full term of the said Long-Term Lease, common expenses of the Condominium.

The Long-Term Lease referred to hereinabove, is annexed to this Declaration, marked "Exhibit No. 4," and made a part hereof, just as though said Long-Term Lease were fully set forth herein.

The Developer and the Association, by their execution of this Declaration of Condominium and each unit owner, by virtue of his taking title to a Condominium parcel, agree that notwithstanding the fact that the Long-Term Lease is attached to this Declaration of Condominium as was recorded in the Public Records subsequent to the recording of this Declaration of Condominium, that said Long-Term Lease shall be deemed to have been recorded in the said Public Records prior to the recording of this Declaration of Condominium.

Each unit owner agrees to be bound by the terms and conditions of said Long-Term Lease and agrees to make payments to the Association of his share of the monies due, pursuant to and in the amount or proportion, or percentage amount, if so stated, as specified in said Lease and this Declaration. It shall be mandatory for the unit owner to make said payments, regardless of whether or not said unit owner uses the recreation facilities.

### **XVIII MISCELLANEOUS PROVISIONS**

A. **Escrow account for insurance and certain Taxes:-** There shall be established and maintained in a local, National or State Bank, or Federal or State Savings and Loan Association, two (2) interest bearing Savings Deposit Accounts, in order to accumulate sufficient monies for the following purposes:-

1. To pay all the Insurance Premiums for the Insurance on the Condominium property obtained and purchased by the Association, pursuant to Article XII of this Declaration; and -
2. To pay all Real and Personal Property Taxes assessed by the taxing authorities afore-described, for property owned by the Condominium, or taxes which the Condominium is required to pay as part of its common expenses, which taxes are not included in the taxes assessed by the taxing authorities against the individual condominium parcels.

On or before the 30<sup>th</sup> day of each month, the Treasurer of this Condominium Association shall cause two checks to be issued and drawn on the Association's Bank Account – each check being equal respectively to one-twelfth (1 / 12<sup>th</sup>) of the estimated yearly amounts as to Items 1, and 2, above; and said checks shall be immediately deposited into the appropriate Savings Deposit Account.

These accounts shall be maintained in the State or National Bank or State or Federal savings and Loan Association owning and holding the first recorded Mortgage encumbering a Condominium unit, and upon the aforesaid mortgagee's no longer owning or holding a mortgage on a unit, then these accounts shall be maintained in the Bank or Savings and Loan Association having the highest dollar amount of indebtedness of institutional first mortgages owing against the condominium units. Where said institutional First Mortgagee is not a State or National Bank or a State or Federal Savings and Loan Association, said account shall be maintained in one of the foregoing as selected by said institutional First Mortgagee.

These accounts shall have the right of withdrawal restricted to a joint request by the Board of Directors of this Condominium Association and the Institutional holding the first recorded mortgages encumbering a unit and, thereafter, the Institution having the highest dollar amount of indebtedness on units.

If, for any reason, this Condominium Association does not pay the Real Property Taxes assessed as to Item 2. above, within sixty (60) days after these taxes are permitted by law to be paid, then the Institution having the right of withdrawal, as aforescribed, shall have undisputed right to withdraw, without the written consent of the Board of Directors of this Condominium Association, such sums of money as are necessary to pay Item 2. Similarly, in the event the annual premium as to Item 1, above is not paid on or before its due date, said Institution having the right of withdrawal as aforescribed, shall have the right, without the necessity of securing the written consent of the Board of Directors of this Condominium Association, to withdraw such sums of money as are necessary to pay the then due premiums.

Should a Condominium unit owner fail to pay that portion of the monthly assessment relating to Items 1, and 2, above, within thirty (30) days from its due date, the Condominium Association shall have the right, but it is not required, to advance the necessary funds so as to deposit the required monthly sum into the Savings Deposit Accounts.

The Condominium Association shall have a lien for all sums so advanced, together with interest thereon. It shall also have the right to assign its lien to any unit owner or group of unit owners, or to any third party. In the event the Association does not advance funds as aforesaid, the holder of the Institutional First mortgage on the delinquent unit, or the Institution having the right of withdrawal, as aforesaid, or the Institution having the highest dollar indebtedness on condominium units, may advance the necessary funds into the Savings Deposit Accounts to make up the deficiency. Said Institution shall have a lien for all sums so advanced, and may bring suit to foreclose the interest of the delinquent condominium unit owner in his Condominium unit.

B. The owners of the respective condominium units shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding their respective units, nor shall the unit owner be deemed to own pipes, wires, conduits or other public utility lines running through said respective condominium units which are utilized for and serve more than one condominium unit, which items are by these presents, hereby made a part of the common elements. Said unit owner, however, shall be deemed to own the walls and partitions which are contained in said unit owner's respective condominium unit, and shall also be deemed to own the inner decorated and/or finished surfaces of the perimeter walls, floors, and ceilings, including plaster, paint, wallpaper, etc.

C. The owners of the respective condominium units agree that if any portion of a condominium unit or common element or limited common element encroaches upon another, a valid easement for the encroachment and maintenance of same, so long as it stands, shall and does exist. In the event the condominium building is partially or totally destroyed, and then re-built, the owners of the condominium parcels agree that encroachments on parts of the common elements or condominium units, as aforescribed, due to construction, shall be permitted, and that a valid easement for said encroachments and maintenance thereof shall exist.

D. That no owner of a Condominium parcel may exempt himself from liability for his contribution toward the common expenses by waiver of the use and enjoyment of any of the common elements, or by abandonment of his condominium unit.

E. The owners of each and every condominium parcel shall return the same for the purpose of ad valorem taxes with the Tax Assessor of the county wherein the Condominium is situate, or such other future legally authorized governmental officer or authority having jurisdiction over the same. Nothing herein shall be construed, however, as giving to any unit owner the right of contribution or any other right of adjustment against any other unit owner on account of any deviation by the taxing authorities from the valuations herein prescribed, each unit owner to pay ad valorem taxes and special assessments as are separately assessed against his condominium parcel.

For the purposes of ad valorem taxation, the interest of the owner of the condominium parcel, in his condominium unit and in the common elements, shall be considered as a unit. The value of said unit shall be equal to the percentage of the value of the entire Condominium, including land and improvements, as has been assigned to said unit and as set forth in this Declaration. The total of all said percentages equals 100% of the value of all of the land and improvements thereon.

F. All provisions of this Declaration and Exhibits attached hereto and Amendments hereof, shall be construed to be covenants running with the land, and of every part thereof and interest therein, including but not limited to every unit and the appurtenances thereto, and every unit owner and claimant of the property or any part thereof, or to any interest therein, and his heirs, executors, administrators, successors and assigns, shall be bound by all the provisions of said Declaration and Exhibits annexed hereto and Amendments thereof.

G. If any provision of this Declaration, or of the By-Laws attached hereto, or of the Condominium Act, or any section, sentence, clause, phrase, or word, or the application thereof, in any circumstances, is held invalid, the validity of the remainder of this Declaration, the By-Laws attached hereto, or the Condominium Act, and of the application of any such provision, action, sentence, clause, phrase or word, in other circumstances, shall not be affected thereby.

H. Whenever notices are required to be sent hereunder, the same may be delivered to unit owners, either personally or by mail, addressed to such unit owners at their place of residence in the Condominium building, unless the unit owner has, by written notice duly receipted for, specified a different address. Proof of such mailing or personal delivery by the Association shall be given by the Affidavit of the person mailing or personally delivering said notices.

Notices to the Association shall be delivered by mail to the office of the Association at: - 2981 Fla-Mango Road, Lake Worth, Florida.

Notices to the Developer shall be delivered by mail at 2981 Fla-Mango Road, Lake Worth, Florida.

All notices shall be deemed and considered sent when mailed. Any party may change his or its mailing address by written notice, duly receipted for. Notices required to be given to the personal representative of a deceased owner, or devisee when there is no personal representative, may be delivered either personally or by mail to such party at his or its address appearing in the records of the Court wherein the Estate of such deceased owner is being administered.

I. Nothing hereinabove set forth in this Declaration shall be construed as prohibiting the Developer or the Board of Directors of the Association from removing or authorizing the removal of any party wall between any Condominium units in order that the said units might be used together as one integral unit. In such event, all assessments, voting rights and the share of common elements shall be calculated as if such units were as originally designated on the Exhibits Attached to this Declaration, notwithstanding the fact that several units are used as one, to the intent and purpose that the unit owner of such combined units shall be treated as the unit owner of as many units as have been combined.

J. The "Remedy for Violation," provide for by Section 23 of the Condominium Act, shall be in full force and effect. In addition thereto, should the Association find it necessary to bring a Court action to bring about compliance with the law, this Declaration and the By-Laws, and a finding by the Court that the violation complained of is willful and deliberate, the unit owner so violating shall reimburse the Association for reasonable Attorney's fees incurred by it in bringing such action, as determined by the Court.

K. Subsequent to the filing of this Declaration of Condominium, the Condominium Association – when authorized by a vote of not less than three-fourths (3/4 ths) of the total vote of the members of the

Association, and approved by all the owners and holders of Institutional First Mortgages encumbering Condominium parcels, and the Lessor under the Long-Term Lease, as long as said Long-Term Lease remains in effect, may acquire and enter into agreements, from time to time, whereby it acquires leaseholds, memberships and other possessory or use interests in lands or facilities, including but not limited to country clubs, golf courses, marinas, and other recreational facilities, whether or not contiguous to the lands of the Condominium, intended to provide for the enjoyment, recreation and other use or benefit of the unit owners. The expenses of rental, membership fees, operations, replacements and other undertakings in connection therewith, shall be common expenses, together with all other expenses and costs herein or by law defined as common expenses.

L. Whenever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the singular shall include the plural, and the plural shall include the singular. The provisions of the Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Condominium.

M. The captions used in this Declaration and Exhibits annexed hereto are inserted solely as a matter of convenience and shall not be relied upon and/or used in construing the effect or meaning of any of the text of this Declaration or Exhibits hereto annexed.

N. Where an Institutional first mortgage, by some circumstance, fails to be a first mortgage, but it is evident that it is intended to be a first mortgage, it shall, nevertheless, for the purpose of this Declaration and Exhibits annexed, be deemed to be an Institutional First Mortgage.

O. If any term, covenant, provision, phrase or other element of the Condominium documents is held invalid or unenforceable for any reason whatsoever, such holding shall not be deemed to affect alter, modify or impair in any manner whatsoever, any other term, provision, covenant or element of the Condominium documents.

P. The Developer specifically disclaims any intent to have made any warranty or representation in connection with the property or the condominium documents, except as specifically set forth therein, and no person shall rely upon any warranty or representation not so specifically made therein. Any estimates of common expenses, taxes or other charges are deemed accurate, but no warranty or guaranty is made or intended, nor may one be relied upon.

Q. The Developer may submit, or cause to be submitted to condominium ownership, lands adjoining this Condominium, in which case the road easement area designated in Exhibit No. 1 annexed to this Declaration will be extended and subsequently, at such time as the Developer deems it advisable, in its sole discretion, it shall cause the fee simple title to the road easement designated in Exhibit No. 1, and as extended, including the extension of the road easement from this Condominium to Fla-Mango Road ( a public dedicated road) to be conveyed by Quit Claim Deed to the Condominium Association, and thereafter, said Real Property shall be maintained just as though it were included as a common expense of this Condominium in the proportions set forth and designated "Unit Owner's Share of Common Expenses Under the Long-Term Lease."

R. Notwithstanding the fact that the demised premises under the Long-Term Lease are a part of the common elements under this Declaration of Condominium, and notwithstanding Article VII of this Declaration, this Declaration of Condominium and the Long-Term Lease may be amended by the Lessor and the Condominium Association, by and through its Board of Director, as to the Long-Term Lease, in any manner, without the approval of the owners as provided in Article VII hereinabove, except there shall be no Amendment which would change the unit owners rent under the Long-Term Lease, nor the manner of sharing common expenses under the Long-Term Lease, without the unit owners so affected, and all record owners of mortgages thereon joining in the execution of said Amendment.

S. The Developer and the Lessor under the Long-Term Lease reserve the right to amend this Declaration of Condominium by adding to the leased premises demised and described in the Long-Term Lease annexed hereto as Exhibit No. 4, an area of land with improvements thereon, described as follows:

A parcel of land lying in Tract A, LAKE CLARKE GARDENS, according to the Plat thereof, recorded in Plat Book 28 at Page 110, of the Public Records of Palm Beach County, Florida, more particularly described as follows:

Commencing at the Southeast corner of Tract "B" of said LAKE CLARKE GARDENS; thence on an assumed bearing of South 73° 00' 15" West, along the southerly line of said tract "B", a distance of 182.14 feet; thence North 76° 25' 45" West along a Southerly line of said Tract "B" a distance of 149.16 feet, thence South 64° 51' 15" West, along the Southerly line of Tract "B" a distance of 158.90 feet to the Point of Beginning; thence North 36° 59' 20" West, along the Southwesterly line of said tract "B" a distance of 45 feet; thence South 50° 26' 45" West, a distance of 172.41feet; thence due South a distance of 70 feet; thence due East a distance of 160 feet; thence due North a distance of 143.85 feet to the Point of Beginning.

Subject to an Easement for Drainage purposes over the East 20 feet, as measured at right angles thereto.

The improvements of the above area of land and the time at which to amend this Declaration shall be in the sole discretion of the Developer and Lessor; however, if such Amendment is not made, executed and recorded in the Public Records of Palm Beach County, Florida, within five (5) years from the date of this Declaration of Condominium, right shall automatically terminate. This right of the Developer and Lessor is conditioned upon there being no increase in the rent by the unit owners of this Condominium to the Lessor, as provided in Exhibit "A" annexed to this Declaration; and unit owners of condominium units under this Declaration, and all owners of condominium units constructed at the time of such Amendment, or later constructed in the area described in the Amendment to Articles of Incorporation of LAKE CLARKE GARDENS CONDOMINIUM, INC., attached to this Declaration as Exhibit No. 3-A ( which Association has been formed to operate the Condominium buildings that are and may be constructed within the area described therein), shall share the common expenses of the recreation area under the Long-Term Lease annexed hereto as Exhibit No. 4, and the Amendment as described in this paragraph, in the same proportion as is provided under Exhibit "A" attached to this Declaration of Condominium, and Exhibit "C" attached to Exhibit No. 4 of this Declaration of Condominium; and all owners of condominium units in the area described in the Amendment to Articles of Incorporation aforesaid of the Condominium Association, as members of LAKE CLARKE GARDENS CONDOMINIUM, INC., shall be entitled to the use and enjoyment of all recreation facilities and demised premises under the Long-Term Lease attached to the Declaration of Condominium as Exhibit No. 4, and the Amendment as provided in this paragraph. An Amendment of this Declaration, reflecting such Amendment to the demised area under the Long-Term Lease, need only be executed and acknowledged by the Lessor and Developer, and need not be approved by the Association, the unit owners, lienors, mortgages, or any persons whomsoever. Such Amendment of Declaration of Condominium shall be filed in the Public Records of Palm Beach County, Florida, and said Amendment of this Declaration of Condominium shall be deemed an Amendment to the Long-Term Lease annexed to this Declaration as Exhibit No. 4, just as though said Exhibit No. 4, attached hereto had included the additional demised lands.

The methods of amending this Declaration of Condominium in regard to the matters set forth specifically in this paragraph "S", supercedes the provisions for the method of amendment to this Declaration of Condominium, as provided in Article VII hereinabove, and as provided in Article XVIII.R., hereinabove.

IN WITNESS THEREOF, FLA-MANGO, INC., a Florida Corporation, has caused these presents to be signed in its name by the President, and the Corporate Seal to be affixed, attested by its Secretary, this

\_\_\_\_\_ day of \_\_\_\_\_, 1971.

Signed, sealed and delivered in the presence of:

FLA-MANGO, INC.

By: \_\_\_\_\_ (Seal)  
Howard Greenfield, President

Attest: \_\_\_\_\_ (Seal)  
Lenore Greenfield, Secretary

**DECLARATION OF CONDOMINIUM**  
**EXHIBIT A**

Condominium Unit and Parcel And Type of Unit	Percentage of Undivided Interest: in Common Elements and Unit Owner's Share of Common Expenses Excluding Share Under Long-Term Lease – PER UNIT	Monthly Rent under Long-Term Lease	
101	2 bedroom, 2 bath	3.3	\$16.95
102	2 bedroom, 1 ½ bath conv.	3.1	\$16.95
103	2 bedroom, 1 bath	3.0	\$15.80
104	1 bedroom, 1 ½ bath	2.8	\$13.55
105	1 bedroom, 1 ½ bath	2.8	\$ 13.55
106	2 bedroom, 1 ½ bath conv.	3.1	\$16.95
107	2 bedroom, 1 bath	3.0	\$15.80
108	2 bedroom, 2 bath	3.3	\$ 16.95
201	2 bedroom, 2 bath	3.3	\$ 16.95
202	2 bedroom, 1 ½ bath conv.	3.1	\$ 16.95
203	2 bedroom, 1 bath	3.0	\$ 15.80
204	1 bedroom, 1 ½ bath	2.9	\$ 13.55
205	1 bedroom, 1 ½ bath	2.9	\$ 13.55
206	2 bedroom, 1 ½ bath conv.	3.1	\$ 16.95
207	2 bedroom, 1 bath	3.0	\$ 15.80
208	2 bedroom, 2 bath	3.3	\$ 16.95
301	2 bedroom, 2 bath	3.4	\$ 16.95
302	2 bedroom, 1 ½ bath conv.	3.2	\$ 16.95
303	2 bedroom, 1 bath	3.1	\$ 15.80
304	1 bedroom, 1 ½ bath	3.0	\$ 13.55
305	1 bedroom, 1 ½ bath	3.0	\$ 13.55
306	2 bedroom, 1 ½ bath conv.	3.2	\$ 16.95
307	2 bedroom, 1 bath	3.1	\$ 15.80
308	2 bedroom, 2 bath	3.4	\$ 16.95
401	2 bedroom, 2 bath	3.4	\$ 16.95
402	2 bedroom, 1 ½ bath conv.	3.2	\$ 16.95
403	2 bedroom, 1 bath	3.1	\$ 15.80
404	1 bedroom, 1 ½ bath	3.0	\$ 13.55
405	1 bedroom, 1 ½ bath	3.0	\$ 13.55
406	2 bedroom, 1 ½ bath conv.	3.2	\$ 16.95
407	2 bedroom, 1 bath	3.2	\$ 15.80
408	2 bedroom, 2 bath	3.4	\$ 16.95

UNIT OWNER'S SHARE OF COMMON EXPENSES UNDER THE LONG-TERM LEASE is defined as the other expenses and obligations, (excluding rent) payable by the Lessee under said Lease, including, without limitation, taxes, assessments, insurance premiums and costs of maintenance and repairs. The total common expenses under the Long-Term Lease will be weighted and computed in such manner so that the following ratio will prevail:

The 1-bedroom, 1 bath units will be used as the base of each proration, and the base shall be 1; 1-bedroom, 1-bath (corner) shall be 1.1% of the base; 1-bedroom, 1 - ½ bath shall be 1.2% of the base; 2-bedroom, 1 – bath units, and 2 – bedroom, 1 – bath convertible units shall be 1.3% of the base; and 1 – bedroom, 1 - ½ bath convertible units and 2 – bedroom, 2 – bath units, and 2 – bedroom 1 – ½ bath convertible units shall be 1.4% of the base.

The Association has been formed to operate this Condominium and other Condominium properties, as set forth in the Articles of the Incorporation attached hereto as Exhibit No. 3, and all members of the Association shall, as unit owners, share the common expenses under the Long-Term Lease under the foregoing ratio. All units will be classified as a type by the Developer, as to one of the five types set forth hereinabove, which type will be assigned to said unit in the Declaration of Condominium of the other Condominium properties which this Association has been formed to operate and administer.