

#47

## BYLAWS

### VILLA SERENO ASSOCIATION, INC.

A Corporation not for profit  
under the laws of the State of Florida

1. Identity. These are the Bylaws of VILLA SERENO ASSOCIATION, INC., called Association in these Bylaws a corporation not for profit under the laws of the Secretary of State on \_\_\_\_\_, 1972. The Association has been organized for the purpose of administering a condominium pursuant to Chapter 711, Florida Statutes, 1969, called the Condominium Act in these Bylaws, which condominium is identified by the name VILLA SERENO I AND II and is located upon the land in Volusia County, Florida, which is identified on Exhibit "A" attached hereto.

1.1 The office of the Association shall be at 2700 Ocean Shore Boulevard, Ormond Beach, Florida.

1.2 The fiscal year of the Association shall be the calendar year. \*

1.3 The seal of the corporation shall bear the name of the corporation, the word "Florida", the words "Corporation not for profit" and the year of incorporation, an impression of which is as follows:

## 2. Members' meetings

2.1 The annual members' meeting shall be held at the office of the corporation at 10:00 o'clock A.M., Eastern Daylight Saving Time on the 2nd Monday in September of each year for the purpose of electing directors and transacting any other business authorized to be transacted by the members; provided, however, if that day is a legal holiday, the meeting shall be held at the same hour on the next day that is not a holiday. \*

2.2 Special members' meetings shall be held whenever called by the President or Vice President or by a majority of the board of directors, and must be called by such officers upon receipt

of a written request from members entitled to case one-third of the votes of the entire membership.

2.3 Notice of all members' meetings stating the time and place and the objects for which the meeting is called shall be given by the President or Vice President or Secretary-Treasurer unless waived in writing. Such notice shall be in writing to each member at his address as it appears on the books of the Association and shall be mailed not less than ten (10) days nor more than sixty (60) days prior to the date of the meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings.

2.4 A quorum at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership. The acts approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the members, except when approval by a greater number of members is required by the Declaration of Condominium, the Articles of Incorporation or these By-laws.

#### 2.5 Voting.

a. In any meeting of members the owners of apartments shall be entitled to cast one vote.

b. If an apartment is owned by one person his right to vote shall be established by the record title to his apartment. If an apartment is owned by more than one person, or is under lease, the person entitled to cast the vote for the apartment shall be designated by a certificate signed by all of the record owners of the apartment and filed with the Secretary of the Association. If an apartment is owned by a corporation, the person entitled to cast the vote for the apartment shall be designated by a certificate signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the corporation and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the apartment concerned. A certificate designating the person entitled to cast the vote of an apartment may be revoked by any owner of an apartment may be revoked by any owner of an apartment. If such a certificate is not on file, the vote of such owners shall not be considered in determining the requirement for a quorum nor for any other purpose.

2.6 Proxies. Votes may be cast in person or by proxy. A proxy may be made by any person entitled to vote and shall be valid only for the particular meeting designated in the proxy and must be filed with the Secretary before the appointed time of the meeting or any adjournment of the meeting.

2.7 Adjourned meetings. If any meeting of members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

2.8. The order of business at annual members' meetings and as far as practical at other members' meetings, shall be:

- a. Election of chairman of meeting
- b. Calling of the roll and certifying of proxies
- c. Proof of notice of meeting or waiver of notice
- d. Reading and disposal of any unapproved minutes
- e. Reports of officers
- f. Reports of committees
- g. Election of inspectors of election
- h. Election of directors
- i. Unfinished business
- j. New business
- k. Adjournment

2.9 Proviso. Provided, however, that until the Developer of the condominium has completed all of the contemplated improvements and closed the sales of all of the apartments of the condominium, or until January 15, 1975, or until the Developer elects to terminate his control of the condominium, whichever shall first occur, the proceedings of all meetings of members of the Association shall have no effect unless approved by the board of directors.

### 3. Directors

3.1 Membership The affairs of the Association shall be managed by a board of not less than three nor more than eleven directors, the exact number to be determined at the time of election.

3.2 Election of directors shall be conducted in the following manner:

- a. Election of directors shall be held at the annual members' meeting.
- b. A nominating committee of five (5) members be appointed by the board of directors not less than 30 days prior to the annual members' meeting. The committee shall nominate one person for each director then serving. Nominations for additional directorships created at the meeting shall be made from the floor, and other nominations may be made from the floor.
- c. The election shall be by ballot (unless dispensed by unanimous consent) and by a plurality of the votes cast, each person voting being entitled to

cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

- Vacancies*
- d. Except as to vacancies provided by removal of directors by members, vacancies in the board of directors occurring between annual meetings of members shall be filled by the remaining directors.
  - e. Any director may be removed by concurrence of two-thirds of the votes of the entire membership at a special meeting of the members called for that purpose. The vacancy in the board of directors so created shall be filled by the members of the Association at the same meeting. *Members present?*
  - f. Provided, however, that until the Developer of the condominium has completed all of the contemplated improvements and closed the sales of all of the apartments of the condominium, or until January 15, 1975, or until Developer elects to terminate its control of the condominium, whichever shall first occur, the first directors of the Association shall serve, and in the event of vacancies the remaining directors shall fill the vacancies, and if there are no remaining directors the vacancies shall be filled by the Developer.

3.3 The term of each director's service shall extend until the next annual meeting of the members and subsequently until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided.

3.4 The organization meeting of a newly-elected board of directors shall be held within ten (10) days of their election at such place and time as shall be fixed by the directors at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary.

3.5 Regular meetings of the board of directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Notice of regular meetings shall be given to each director, personally or by mail, telephone or telegraph, at least three days prior to the day named for such meeting.

3.6 Special meetings of the directors may be called by the President and must be called by the Secretary-Treasurer at the written request of one-third of the directors. Not less than three days' notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

3.7 Waiver of notice. Any director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

3.8 A quorum at directors' meetings shall consist of a majority of the entire board of directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the board of directors, except when approval by a greater number of directors is required by the Declaration of Condominium, the Articles of Incorporation or these Bylaws.

3.9 Adjourned meetings. If at any meeting of the board of directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that might have been transacted at the meeting as originally called may be transacted without further notice.

3.10 Joinder in meeting by approval of minutes. The joinder of a director in the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the presence of such director for the purpose of determining a quorum.

3.11 The presiding officer of directors' meetings shall be the chairman of the board if such an officer has been elected; and if none the President shall preside. In the absence of the presiding officer, the directors present shall designate one of their number to preside.

3.12 The order of business at directors' meetings shall be:

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

3.13 Directors' fees, if any, shall be determined by the members.

4. Powers and duties of the Board of Directors. All of the powers and duties of the Association existing under the Condominium Act, Declaration of Condominium, Articles of Incorporation and these Bylaws shall be exercised exclusively by the board of directors, its agents, contractors or employees, subject only to approval by apartment owners when such is specifically required.

## 5. Officers.

5.1 The executive officers of the Association shall be a President, who shall be a director, a Vice President, who shall be a director, a Secretary-Treasurer and an Assistant Secretary, all of whom shall be elected annually by the board of directors and who may be peremptorily removed by vote of the directors at any meeting. Any person may hold two or more offices except that the President shall

not be also the Secretary-Treasurer or an Assistant Secretary. The board of directors from time to time shall elect such other officers and designate their powers and duties as the board shall find to be required to manage the affairs of the Association.

5.2 The President shall be the chief executive officer of the Association. He shall have all of the powers and duties usually vested in the office of president of an association, including, but not limited to the power to appoint committees from among the members from time to time, as he in his discretion may determine appropriate, to assist in the conduct of the affairs of the Association.

5.3 The Vice-President in the absence or disability of the President shall exercise the powers and perform the duties of the President. He also shall assist the President generally and exercise such other powers and perform such other duties as shall be prescribed by the directors.

5.4 The Secretary-Treasurer shall keep the minutes of all proceedings of the directors and the members. He shall attend to the giving and serving of all notices to the members and directors and other notices required by law. He shall have custody of the seal of the Association and affix it to instruments requiring a seal when duly signed. He shall keep the records of the Association, and shall perform all other duties incident to the office of secretary of an association and as may be required by the directors or the President. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

5.5 The compensation of all officers and employees of the Association shall be fixed by the directors. The provision that directors' fees shall be determined by members shall not preclude the Board of Directors from employing a director as an employee of the Association nor preclude the contracting with a director for the management of the condominium.

6. Fiscal management. The provisions for fiscal management of the Association set forth in the Declaration of Condominium and Articles of Incorporation shall be supplemented by the following provisions:

6.1 Accounts. The receipts and expenditures of the Association shall be credited and charged to accounts under the following classifications as shall be appropriate, all of which expenditures shall be common expenses:

- a. Current expense, which shall include all receipts and expenditures within the year for which the budget is made including a reasonable allowance for contingencies and working funds.
- b. Reserve for deferred maintenance, which shall


*Villa Sereno  
Assoc Inc*

*By Law*

include funds for maintenance items that occur less frequently than annually.

- c. Reserve for replacement, which shall include funds for repair or replacement required because of damage, depreciation or obsolescence.
- d. Betterments, which shall include the funds to be used for capital expenditures for additional improvements or additional personal property that will be part of the common elements.
- e. Operations, which shall include the gross revenues from the use of the common elements. Only the additional direct expenses required by the revenue-producing operation will be charged to this account, and any surplus from such operation shall be used to reduce the assessments for the current expense in the year following the year in which the surplus is realized. Losses from operations shall be met by special assessments against apartment owners, which assessments may be made in advance in order to provide a working fund.

6.2 Budget. The board of directors shall adopt a budget for each calendar year that shall include the estimated funds required to defray the common expense and to provide and maintain funds for the foregoing accounts and reserves according to good accounting practices as follows:

- a. Current expense, the amount of which shall not exceed 105% of the budget for this account for the prior year.
-  b. Reserve for deferred maintenance, the amount for which shall not exceed 105% of the budget for this account for the prior year.
- c. Reserve for replacement, the amount for which shall not exceed 105% of the budget for this account for the prior year.
- d. Betterments, which shall include the funds to be used for capital expenditures for additional improvements or additional personal property that will be a part of the common elements, the amount for which shall not exceed \$20,000.00, provided, however, that in the expenditure of this fund no sum in excess of \$50.00 shall be expended for a single item or purpose without approval of the members of the Association. *Working fund* ✓
- e. Provided, however, that the amount of each budgeted item may be increased over the foregoing limitations

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when approved by apartment owners entitled to cast not less than 75% of the votes of the entire membership of the Association; and further provided, however, that until Developer of the condominium has completed all of the contemplated improvements and closed the sales of all apartments of the condominium, or until January 15, 197 , or until Developer elects to terminate its control of the condominium, whichever shall first occur, the board of directors may omit from the budget all allowances for contingencies and reserves.

- f. Copies of the budget and proposed assessments shall be transmitted to each member on or before ~~December~~ ~~ber~~ <sup>1</sup> preceding the year for which the budget is made. If the budget is amended subsequently, a copy of the amended budget shall be furnished to each member. ✓

*exp. ins. May 31*

6.3 Assessments. Assessments against the apartment owners for their shares of the items of the budget shall be made for the calendar year annually in advance on or before December 20 preceding the year for which the assessments are made. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment and semi-annual installments on such assessment shall be due upon each installment payment date until changed by an amended assessment. In the event the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the board of directors if the accounts of the amended budget do not exceed the limitations for that year. Any account that does exceed such limitation shall be subject to the approval of the membership of the Association as previously required in these Bylaws. The unpaid assessment for the remaining portion of the calendar year for which the amended assessment is made shall be due upon the date of the assessment if made on or after July 1; and if made prior to July 1, one half of the increase shall be due upon the date of the assessment and the balance of the assessment made upon the next July 1. The first assessment shall be determined by the board of directors of the Association.

6.4 Acceleration of assessment installments upon default. If an apartment owner shall be in default in the payment of an installment upon an assessment, the board of directors may accelerate the remaining installments of the assessment upon notice to the apartment owner, and then the unpaid balance of the assessment shall come due upon the date stated in the notice, but not less than ten (10) days after delivery of the notice to the apartment owner, or not less than twenty (20) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

6.5 Assessments for emergencies. Assessments for common expenses of emergencies that cannot be paid from the annual assessments for common expenses shall be made only after notice of the need for, Y



such is given to the apartment owners concerned. After such notice (17) and upon approval in writing by persons entitled to cast more than one half of the votes of the apartment owners concerned, the assessment shall become effective, and it shall be due after 30 days' notice in such manner as the board of directors of the Association may require in the notice of assessment. ✓

6.6 The depository of the Association shall be such bank or banks as shall be designated from time to time by the directors and in which the moneys of the Association shall be deposited. Withdrawal of moneys from such accounts shall be only by checks signed by such persons as are authorized by the directors. *if needed to the*

6.7 An audit of the accounts of the Association shall be made annually by a certified public accountant, and a copy of the audit report shall be furnished to each member not later than April 1 of the year following the year for which the audit is made.

6.8 Fidelity bonds shall be required by the board of directors as they may from time to time direct from all persons handling or responsible for Association funds. The amount of such bonds shall be determined by the directors, but shall not be less than one half of the amount of the total annual assessments against members for common expenses. The premiums on such bonds shall be paid by the Association.

7. Parliamentary rules. Roberts' Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with the Declaration of Condominium, Articles of Incorporation or these Bylaws.

8. Amendments. These Bylaws may be amended in the following manner:

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

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

- a. Not less than 75% of the entire membership of the board of directors and by not less than 75% of the votes of the entire membership of the Association; or
- b. By not less than 80% of the votes of the entire membership of the Association; or

- c. Until the first election of directors, by all of the directors.

8.3 Proviso. Provided, however, that no amendment shall discriminate against any apartment owner nor against any apartment or class or group of apartments unless the apartment owners so affected shall consent. No amendment shall be made that is in conflict with the Articles of Incorporation or the Declaration of Condominium.

8.4 Execution and recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of the Declaration and Bylaws, which certificate shall be executed by the officers of the Association with the formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are recorded in the public records of Volusia County, Florida.

The foregoing were adopted as the Bylaws of VILLA SERENO ASSOCIATION, INC., a corporation not for profit under the laws of the State of Florida, at the first meeting of the Board of Directors on , 1972.

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Secretary

Approved:

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President

# *Villa Sereno Condominium*

VILLA SERENO 1

Ormond Beach, Florida

UNIT: \_\_\_\_\_

PURCHASER: \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

PRICE: \_\_\_\_\_

## PURCHASE AGREEMENT

**ADVANCE PAYMENTS MADE PURSUANT TO THIS CONTRACT  
MAY BE USED FOR CONSTRUCTION PURPOSES BY THE DEVELOPER.**

Offer to Purchase

Date \_\_\_\_\_, 1972.

The undersigned, Purchaser, with the execution of this instrument, pays the sum of \$ \_\_\_\_\_ to Ormond Beach 1st National Bank, Trust Department, 200 East Granada Avenue, Ormond Beach, Florida, hereinafter referred to as Escrow Agent, as earnest money to evidence the good faith of Purchaser, and by this instrument offers to purchase from JOHN LEDBETTER, as Trustee, and hereinafter referred to as Trustee, developer of the condominium project, the following property in Volusia County, Florida:

Unit No. \_\_\_\_\_, of Villa Sereno Condominium, a condominium, according to the proposed Declaration of Condominium, together with all appurtenances to such unit, which shall include a pro-rata share in the land, common elements and the common expenses as defined in the proposed Declaration of Condominium. The condominium will be in Ormond Beach, Florida, on the following land:

Parcel # 1 — Lots 1 through 13 inclusive, and a portion of Lots 14 and 15, together with all Streets lying within the bounds of the following described parcel, in Vieu De L'Eau Subdivision, as recorded in Map Book 1, Page 47, Public records of Volusia County, Florida, described as follows: Beginning at an intersection of the Westerly line of Ocean Shore Boulevard, also known as State Road # A-1-A, (An 80 foot right of way) with the Southerly line of said Vieu De L'Eau Subdivision; Thence North 22 Degrees 41 minutes 00 Seconds West along the westerly line of said State Road # A-1-A a distance of 214.80 feet; Thence North 23 Degrees 11 Minutes 50 Seconds west along the westerly line of said State Road # A-1-A a distance of 213.98 feet; Thence South 66 Degrees 48 minutes 10 Seconds west along the Southerly line of Imperial Heights Subdivision, as same is recorded in Map Book 25, Page 211, Public records of Volusia County, Florida, a distance of 460 feet; Thence South 23 Degrees 11 Minutes 50 Seconds East 231.04 feet to a point in the Southerly line of said Vieu De L'Eau Subdivision; Thence North 88 Degrees 15 minutes 00 Seconds East along the Southerly line of said Subdivision a distance of 497.95 feet to the point of beginning, together with all lands lying between the Easterly line of State Road # A-1-A and the Atlantic Ocean, and between the Northerly and Southerly lines of said described parcel extended Easterly, together with all riparian, littoral and shore rights appertaining thereto.

Parcel # 2 — A portion of Government Lot 5, Section 21, Township 13 South, Range 32 East, also being described as a portion of Becon Homestead, as recorded in Map Book 1, Page 47, Public records of Volusia County, Florida, being more particularly described as follows: Beginning at an intersection of the Southerly line of said Government Lot 5 with the Westerly line of Vieu De L'Eau Subdivision, as same is recorded in Map Book 1, Page 47, Public records of Volusia County, Florida; Thence North 23 Degrees 11 minutes 50 seconds West along the westerly line of said Vieu De L'Eau Subdivision a distance of 145.63 feet; Thence South 69 Degrees 07 minutes 20 seconds West along the Southerly line of Lots 12, 13 and 18 of Imperial Heights Subdivision, as same is recorded in Map Book 25, Page 211, Public records of Volusia County, Florida, a distance of 419.89 feet to an intersection of the Southerly line of said Government Lot 5; Thence North 88 Degrees 15 minutes 00 Seconds East along the Southerly line of said Government Lot 5 a distance of 444.43 feet to the point of beginning.

1. Price and Terms of Payment. The purchase price of the unit will be paid in the following manner.

- a. The payment made upon making this offer, which includes any deposit previously paid, to the Escrow Agent, in the amount . . . . \$2,500.00
  - b. The balance of the purchase price shall be paid in cash at the time of closing, which balance shall be paid in the amount of . . . . \$ \_\_\_\_\_
- TOTAL PURCHASE PRICE . . . . \$ \_\_\_\_\_

c. All payments made by Purchaser under this agreement to Escrow Agent shall be deposited in the Trust Account of Escrow Agent. Such funds shall be paid to Trustee when all of the conditions stated in Section Two (2) of this agreement have been performed. If all of such conditions are not satisfied within Fifteen (15) days after completion of Purchaser's unit, then the sums held by Escrow Agent under this agreement shall be returned to Purchaser upon demand, whereupon all parties shall be relieved from all obligations under this agreement.

d. In the event that the Purchasers should require mortgage financing in order to close the purchase of their apartment, it shall be incumbent upon Purchasers to make application for a mortgage loan with a lending institution loaning funds on first mortgages, and to arrange for the closing of said Mortgage loan simultaneous with the closing of the purchase and sale covered by this Agreement. The Developer is not a lending institution and does not arrange, provide or negotiate mortgage loans with any lending institution as an agent, broker or otherwise.

e. It shall be the obligation of the Purchaser to pay for any closing costs, fees, attorneys' fees and title insurance costs charged by any lending institution should the Purchasers desire mortgage financing, whether said loans shall be new loans or the assumption of existing loans.

2. Conditions to Release of Payments on Purchase Price.

Trustee shall perform the following conditions before any payments made by Purchaser under this Agreement are paid to Trustee; Trustee will advise Purchaser from time to time upon demand as to the performance of these conditions, or Purchaser may inspect the evidence of such held by Trustee. Trustee shall:

a. Accept this offer by delivering or mailing to Purchaser a counterpart of this agreement signed by Trustee.

b. File a Notice of Commencement pursuant to Part I of Chapter 713, Florida Statutes.

3. Upon the performance and occurrence of the foregoing conditions John Ledbetter, as Trustee, may withdraw such advance

deposits from the special account held by Escrow Agent and use such sums in the actual construction and development of the condominium property in which the apartment to be sold is located, except that no part of such funds may be used for salaries, commissions or expenses of salesmen or for advertising purposes.

4. Approval of Purchaser. Purchaser understands that the Trustee is attempting to create a community of financially responsible and congenial residents, that this offer will be screened with such purpose in view and that this offer may be rejected arbitrarily. Purchaser represents that the information he has submitted to Trustee concerning Purchaser and his family is true. As part of the consideration for this agreement, Purchaser consents that Trustee make such investigation of Purchaser as may be deemed desirable, and Purchaser covenants to hold Trustee harmless and releases Trustee from liability on account of such investigation and any decision based on it.

5. Acceptance of Offer. If Purchaser's offer is not accepted on or before Sixty (60) days after the date of this offer by delivery or mailing to Purchaser of a copy of this instrument executed by Trustee, then after that date, Purchaser may elect to withdraw this offer at any time prior to its acceptance. Upon such withdrawal, all sums paid under this instrument will be refunded to Purchaser upon demand. If Trustee shall reject this offer, then all sums paid under this instrument by Purchaser shall be returned to Purchaser forthwith with notice of such rejection. Upon return to Purchaser of all sums under this instrument, all parties shall be released from all obligations under this instrument.

6. The Condominium.

a. Trustee will construct and equip approximately thirty-eight (38) units and other improvements upon the land substantially in accordance with the plans and specifications for such by Craig J. Gehlert, A.I.A., subject, however, to reasonable modifications approved by Trustee that do not materially affect the rights of the Purchaser or of the value of the unit without obtaining the approval of the Buyer. Such plans and specifications are available for inspection by Purchaser at the office of Trustee. Construction of the building will begin on or before June 1, 1972 and Trustee will pursue the construction diligently until completion.

b. One of three (3) different color schemes and patterns shall be offered to the Purchaser, and he shall be afforded his choice with regard to the decorating of his individual unit. Purchaser's unit is being sold unfurnished, but will be equipped in the manner shown by the plans and specifications, including, but not limited to, the installation of wall-to-wall carpeting; built-in oven and range, and dishwasher, and a central heat and air-conditioning system. Purchaser shall have Thirty (30) days from date of notification that colors, etc., are available, in which to select all colors, tile, etc.

c. The following documents are herewith delivered to the prospective purchaser prior to the execution of this Purchase Agreement and the same are hereby specifically approved and accepted:

- 1) Declaration of Condominium
- 2) Articles of Incorporation

- 3) By Laws of Association
- 4) Management or Maintenance Contract
- 5) Projected operating budget, including estimated monthly payments (based on % financing), taxes and monthly charges for maintenance of the common elements.
- 6) Sales brochure and floor plan, showing the location of recreational facilities, parking, and other common areas to be shared equally by all the unit owners.

The signing of this Agreement by the Purchasers acknowledges receipt and approval of the aforementioned documents by them. Trustee reserves the right to make changes in any of the items furnished, providing such changes do not decrease Purchaser's share in the common elements, change his voting rights or increase Purchaser's share in the common expenses.

d. Risk of loss prior to closing shall be borne by Trustee.

e. Trustee will cause the condominium association to make a capital assessment against Unit Purchasers, for the acquisition of pool equipment, patio furniture for the pool area, etc., and other personal property for the condominium and to provide working capital. Such assessment for the Purchaser's unit will be in the amount of \$45.00, and will be due at the closing.

f. Trustee will cause the condominium association to make assessments for common expenses so that for the period beginning with the date upon which Trustee is ready to close this sale according to the terms of this instrument and ending with the closing of the sale by Trustee of the last unit owned by it, or on

JUNE 1, 1973 whichever shall first occur, the assessments against the unit for common expenses shall be at the estimated rate of \$45.00 per month, and Trustee shall be assessed for only



that part of the common expenses that is in excess of the sums collected by assessments against units sold by Trustee. Thereafter Trustee will be assessed for common expenses upon the units owned by it in the same manner as other unit owners are assessed. The first assessments due hereunder shall be paid at closing. This clause shall survive the closing.

g. Trustee shall have the exclusive right to execute a contract, the objective of which is the furnishing of professional management for the operation of the condominium. Said contract shall be substantially in the form of Exhibit "A" attached hereto. Such agreement may be assigned to the condominium association at such time as it is organized by the unit owners.

7. Title. Upon receipt of timely written request from Purchaser, Trustee shall furnish to Purchaser at or within ten (10) days after closing, an owner's type title insurance policy guaranteeing or insuring the title of the condominium unit to Purchaser, subject to the following exceptions: rights of persons in possession of the property; facts that an accurate survey or personal inspection of the property will disclose; unrecorded labor, mechanics' or materialmen's liens; encumbrances, liens or conveyances other than a conveyance to the person to whom the guaranty is made, which are recorded, or of which Purchaser or his attorney acquired knowledge; mortgages and liens of record; taxes for the year in which the sale is closed, if not paid; restrictions of record and such zoning or other restrictions upon the use of the property as may be imposed by governmental authorities having jurisdiction; easements; liens for work done or materials furnished at the request of Purchaser; provisions of the Declaration of Condominium, including such regulations and service contracts as shall be enforced

under the Declaration; and the quality or quantity of riparian or littoral rights. The furnishing of this guaranty shall be subject to and contingent upon performance by Purchaser of Article Nine (9) (e) Two (2) of this Agreement.

All mortgages and liens now or hereafter encumbering the unit will be discharged or released at or prior to the closing unless assumed by Purchaser, but all rights of Purchaser under this instrument are subordinated to the lien of any mortgage to a bank, insurance company, or savings and loan association placed upon the land or the condominium prior to the closing of the sale.

If Trustee does not have a title that is marketable or insurable within the terms of this instrument, Trustee agrees to use reasonable diligence to make it so. If the title cannot be rendered insurable within a reasonable time after the closing date provided in Section Eight (8), then at the option of Purchaser, all monies paid under this instrument shall be returned to Purchaser by Trustee upon demand to Trustee, and both parties thus shall be relieved from all obligations under this instrument, or the defects may be waived and title taken by Purchaser in its existing condition.

8. Closing Date. This sale shall be closed on or before Fifteen (15) days after delivery or mailing to Purchaser of a notice advising the completion of construction.

9. Closing. The closing shall be effected in the following manner:

a. The closing will be held at Ormond Beach, Florida, or at some other place as shall be designated by Trustee.

b. The balance of the purchase price will be paid in cash, together with interest at the rate of Eight and one-half ( 8 1/2) percent per annum for the period of any delay caused by Purchaser.

c. Title to the unit shall be conveyed by warranty deed subject only to the exceptions stated in this instrument.

d. Ad valorem taxes, less the November discount, will be prorated to the date upon which Trustee is ready to close this sale according to the terms of this instrument. If the taxes for the year in which the sale is closed are assessed against the property as a whole, then the portion of such taxes apportioned to the unit shall be the same share as the share in the common elements that is appurtenant to the unit.

e. The following expenses will be paid by Purchaser:

- 1) Recording of deed, cost of documentary stamps required to be affixed to the deed, and abstract closeout.
- 2) 1/2 of 1% of the purchase price to a reputable law firm for title guarantee or insurance unless such guarantee or insurance is waived by Purchaser.
- 3) All costs required to be paid by the mortgagor if Purchaser's unit is to be mortgaged or assumed.
- 4) Utility deposits apportioned to the unit.
- 5) A fee not to exceed \$35.00 for the preparation of all closing documents and recording of applicable instruments.
- 6) All sums for refrigerator or any requested change order accomplished by contractor.

f. Purchaser will pay to Trustee, in trust for the condominium association, the capital assessment provided in Sec-

tion Six (6) (e) and the assessment for common expenses provided in Section Six (6) (f).

10. Default.

a. Trustee. If Trustee defaults in the performance of this instrument, then Purchaser, at his option, may elect to void the agreement and all sums paid by him shall be returned forthwith to him by Trustee upon demand made to Trustee. If Trustee defaults in making such refund to Purchaser, or if Trustee fails to complete construction of the condominium, the Purchasers whose funds have been deposited with Escrow Agent, at their election, shall be entitled to use the balance in their account, if any, and to exercise Trustee's right to any construction funds held by a mortgagee of the land or condominium for completing and equipping the condominium. If no funds are remaining in the hands of the Escrow Agent, Purchaser agrees to hold only Trustee responsible therefore. Failure by Purchaser to give notice in writing to Trustee of any alleged default before Trustee tenders performance of any omitted act shall constitute a waiver of default of Trustee.

b. Purchaser. If Purchaser defaults in the performance of this contract, then Trustee, if Trustee is not in default, at Trustee's election, may terminate this agreement. In such event, because of the difficulty in determining Trustee's damages, it is agreed that the amount of damages be liquidated and paid in the following manner: The liquidated sum to be due to Trustee shall be all of the sums paid by Purchaser upon the purchase price, but not to exceed Fifteen (15%) percent of the purchase price. All sums paid upon the purchase price in excess of such liquidated amount shall be paid forthwith to Purchaser, together with a statement of

the election by Trustee to terminate the agreement and describing Purchaser's default. If the liquidated sum is held by Escrow Agent, it shall be paid forthwith to Trustee.

c. Release. Upon the making of the payments provided in the event of default, both parties shall be released from all further obligations under this agreement.

11. Nonassignability. This contract is personal to the Purchaser and cannot be assigned without approval of Trustee in writing.

12. Notice. The delivery of any item and the giving of notice in compliance with this agreement shall be accomplished by delivery of the item or notice to the party intended to receive it, or by mailing it within the continental United States by certified mail addressed to Trustee or to the Purchaser at the address stated in this agreement. Notice or delivery by mail shall be effective when mailed.

13. Enforceability. This contract shall be binding upon the heirs, successors or assigns to the respective parties. It is understood and agreed that this agreement encompasses the entire contract between the parties and specifically supersedes and negates any prior contracts or agreements between the Purchaser and Trustee, or any other party who has represented the developers of the condominium project.

This agreement shall be governed by and construed under the laws of the State of Florida. In the event any litigation is instituted by way of construction or enforcement of this agreement,

the party prevailing in said litigation shall be entitled to collect and receive from the opposing party all court costs and other expenses including reasonable attorney's fees.

**ADVANCE PAYMENTS MADE PURSUANT TO THIS CONTRACT  
MAY BE USED FOR CONSTRUCTION PURPOSES BY THE DEVELOPER.**

Witnesses:

Purchaser(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(SEAL)

Mailing Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_, 197\_\_

R E C E I P T

Dated: \_\_\_\_\_, 197\_\_.

Receipt is acknowledged from Purchaser of a check in the amount of \$ \_\_\_\_\_, subject to the terms of the foregoing offer.

ORMOND BEACH FIRST NATIONAL BANK

By: \_\_\_\_\_  
Escrow Agent

DECLARATION OF CONDOMINIUM

VILLA SERENO I

2700 Ocean Shore Boulevard  
Ormond Beach, Florida

MADE this \_\_\_\_\_, 19\_\_\_\_ by JOHN LEDBETTER, individually and as Trustee, under the provisions of a certain Trust Agreement, dated the \_\_\_\_\_ day of \_\_\_\_\_, 1972, joined by his wife, JOYCE H. LEDBETTER, called the Developer, for themselves, their successors, grantees and assigns.

WHEREIN the Developer makes the following declarations:

1. Purpose. The purpose of this Declaration is to submit the lands described in this instrument and improvements on such lands to the condominium form of ownership and use in the manner provided by Chapter 711, Florida Statutes 1969, hereafter called The Condominium Act.

1.1. Name and Address. The name by which this condominium is to be identified is VILLA SERENO I, a condominium, and its address is 2700 Ocean Shore Boulevard, Ormond Beach, Florida.

1.2. The Land. The lands owned by Developer which by this instrument are submitted to the condominium form of ownership, are the following-described lands lying in Volusia County, Florida:

Part of Lots 1 through 13 inclusive, and a portion of Lots 14 and 15, together with all streets lying within the bounds of the following described parcel, in Vieu De L'Eau Subdivision, as recorded in Map Book 1, page 47, public records of Volusia County, Florida, described as follows: Beginning at an intersection of the westerly line of A-1-A Highway with the Southerly line of said Lot 1; thence North 22 degrees 41 minutes West along the Westerly line of said A-1-A Highway 199.69 feet; thence North 23

degrees 11 minutes 50 seconds West along the Westerly line of said A-1-A Highway 213.43 feet; thence South 66 degrees 48 minutes 10 seconds West along the Southerly line of Imperial Heights Sub. 300 feet; thence South 23 degrees 11 minutes 50 seconds East 295.94 feet to a point in the Southerly line of Vieu De L'Eau Subdivision; thence North 88 degrees 15 minutes East 320.40 feet to the point of beginning, together with all lands lying between the Easterly line of State Road # A-1-A and the Atlantic Ocean, and between the Northerly and Southerly lines of said described parcel extended Easterly, together with all riparian, Littoral and shore rights appertaining thereto, together with and subject to an easement appurtenant to part of Lots 2, 4, 6, 8, 10, 12 and 14, Vieu De L'Eau Subdivision, as recorded in Map Book 1, page 47, public records of Volusia County, Florida, and a portion of Government Lot 5, Section 21, Township 13 South, Range 32 East, Volusia County, Florida, being described as follows: As a point of reference, commence at an intersection of the westerly line of A-1-A Highway with the Southerly line of said Vieu De L'Eau Subdivision; thence South 88 degrees 15 minutes West along aforesaid Southerly line 320.40 feet to the point of beginning of the following described parcel; thence North 23 degrees 11 minutes 50 seconds West 295.94 feet; thence South 66 degrees 48 minutes 10 seconds west 160 feet; thence South 23 degrees 11 minutes 50 seconds East 85.41 feet; thence South 69 degrees 07 minutes 20 seconds West 25 feet; thence South 23 degrees 11 minutes 50 seconds East 138.89 feet to a point in the South line of Government Lot 5; thence North 88 degrees 15 minutes East 198.74 feet to the point of beginning.

#### DEFINITIONS

2. Definitions. The terms used in this Declaration and in its exhibits shall have the meanings stated in the Condominium Act (711.03) Florida Statutes 1969) and as follows unless the context otherwise requires:

2.1 Apartment means unit as defined by the Condominium Act.

2.2 Apartment Owner means unit owner as defined by the Condominium Act.



2.3 Association means the VILLA SERENO ASSOCIATION, INC. and its successors.

2.4 Common elements shall include the tangible personal property required for the maintenance and operation of the condominium, even though owned by the Association, as well as the items stated in the Condominium Act.

2.5 Common expenses include:

a. Expenses of administration: expenses of maintenance, operation, repair or replacement of the common elements and of the portions or apartments to be maintained by the Association.

b. Any valid charge against the condominium property as a whole.

c. Expenses declared common expenses by provisions of this Declaration of the Bylaws, including but not limited to losses from revenue producing operations.

2.6 Condominium means all of the condominium property as a whole when the context so permits, as well as the meaning stated in the Condominium Act.

2.7 Singular, plural gender. Whenever the context so permits, the use of the plural shall include the singular, the singular the plural, and the use of any gender shall be deemed to include all genders.

2.8 Utility services as used in the Condominium Act and as construed with reference to this condominium, and as used in the Declaration and By-laws, shall include but not be limited to electric power, gas, hot and cold water, heating, refrigeration, air conditioning and garbage and sewer disposal.

DEVELOPMENT PLAN

3. Development plan. The condominium is described and established as follows:

3.1 A survey of the land showing the improvements on it is attached as Exhibit A which comprises \_\_\_\_\_ sheets.

3.2 Plans. The improvements upon the land are constructed substantially in accordance with the plans and specifications for such prepared by Craig J. Gehlert, and designated as his Job No. \_\_\_\_\_, a portion of which plans are attached in the foregoing exhibits.

3.3 Amendment of plans.

a. Alteration of apartment plans. Developer reserves the right to change the interior design and arrangement of all units, and to alter the boundaries between the units, as long as Developer owns the units so altered. No such change shall increase the number of apartments nor alter the boundaries of the common elements without amendment of this Declaration by approval of the Association, apartment owners and owners of mortgages in the manner elsewhere provided. If Developer shall make any changes in units so authorized, such changes shall be reflected by an amendment of this Declaration. If more than one unit is concerned, the Developer shall apportion between the units the shares in the common elements appurtenant to the units concerned.

b. Amendment of Declaration. An amendment of this Declaration reflecting such authorized alteration of apartment plans by Developer need be signed and acknowledged only by the

Developer and need not be approved by the Association, apartment owners or lienors or mortgagees of apartments or of the condominium, whether or not elsewhere required for an amendment.

### 3.4 Easements

a. Easements are reserved through the condominium property as may be required for utility services in order to serve the condominium adequately; provided, however, such easements through an apartment shall be only according to the plans and specifications for the apartment building, or as the building is constructed, unless approved in writing by the apartment owner.

b. Part of Lots 1 through 13 inclusive, and a portion of Lots 14 and 15, together with all streets lying within the bounds of the following described parcel, in Vieu De L'Eau Subdivision, as recorded in Map Book 1, page 47, public records of Volusia County, Florida, described as follows: Beginning at an intersection of the westerly line of ALA Highway with the Southerly line of said Lot 1; thence North 22 degrees 41 minutes West along the Westerly line of said ALA Highway 199.69 feet; thence North 23 degrees 11 minutes 50 seconds West along the Westerly line of said ALA Highway 213.43 feet; thence South 66 degrees 48 minutes 10 seconds West along the Southerly line of Imperial Heights Sub. 300 feet; thence South 23 degrees 11 minutes 50 seconds East 295.94 feet to a point in the Southerly line of Vieu De L'Eau Subdivision; thence North 88 degrees 15 minutes East 320.40 feet to the point of beginning\*is hereby declared to include an easement appurtenant to, and over the following described realty owned by Developer: Part of Lots 2, 4, 6, 8, 10, 12 and 14, Vieu De L'Eau Subdivision, as recorded

in Map Book 1, page 47, public records of Volusia County, Florida, and a portion of Government Lot 5, Section 21, Township 13 South, Range 32 East, Volusia County, Florida, being described as follows: As a point of reference, commence at an intersection of the westerly line of ALA Highway with the Southerly line of said Vieu De L'Eau Subdivision; thence South 88 degrees 15 minutes West along aforesaid Southerly line 320.40 feet to the point of beginning of the following described parcel; thence North 23 degrees 11 minutes 50 seconds West 295.94 feet; thence South 66 degrees 48 minutes 10 seconds west 160 feet; thence South 23 degrees 11 minutes 50 seconds East 85.41 feet; thence South 69 degrees 07 minutes 20 seconds West 25 feet; thence South 23 degrees 11 minutes 50 seconds East 138.89 feet to a point in the South line of Government Lot 5; thence North 88 degrees 15 minutes East 198.74 feet to the point of beginning.

c. Part of Lots 2, 4, 6, 8, 10, 12 and 14, Vieu De L'Eau Subdivision, as recorded in Map Book 1, page 47, public records of Volusia County, Florida, and a portion of Government Lot 5, Section 21, Township 13 South, Range 32 East, Volusia County, Florida, being described as follows: As a point of reference, commence at an intersection of the westerly line of ALA Highway with the Southerly line of said Vieu De L'Eau Subdivision; thence South 88 degrees 15 minutes West along aforesaid Southerly line 320.40 feet to the point of beginning of the following described parcel; thence North 23 degrees 11 minutes 50 seconds West 295.94 feet; thence South 66 degrees 48 minutes 10 seconds west 160 feet; thence South 23 degrees 11 minutes 50 seconds East 85.41 feet; thence

South 69 degrees 07 minutes 20 seconds West 25 feet; thence South 23 degrees 11 minutes 50 seconds East 138.89 feet to a point in the South line of Government Lot 5; thence North 88 degrees 15 minutes East 198.74 feet to the point of beginning is hereby declared to include an easement appurtenant to, and over the following described realty owned by Developer: Part of Lots 1 through 13 inclusive, and a portion of Lots 14 and 15, together with all streets lying within the bounds of the following described parcel, in Vieu De L'Eau Subdivision, as recorded in Map Book 1, page 47, public records of Volusia County, Florida, described as follows: Beginning at an intersection of the westerly line of A1A Highway with the Southerly line of said Lot 1; thence North 22 degrees 41 minutes West along the Westerly line of said A1A Highway 199.69 feet; thence North 23 degrees 11 minutes 50 seconds West along the Westerly line of said A1A Highway 213.43 feet; thence South 66 degrees 48 minutes 10 seconds West along the Southerly line of Imperial Heights Sub. 300 feet; thence South 23 degrees 11 minutes 50 seconds East 295.94 feet to a point in the Southerly line of Vieu De L'Eau Subdivision; thence North 88 degrees 15 minutes East 320.40 feet to the point of beginning. \*

d. The purposes of said easements are: To construct, operate, maintain, modify, inspect, repair, replace and enjoy by owners of the Dominant estate, their tenants, servants, visitors, licensees, agents or employees, in common with all persons having the like right, at all times hereafter, all utility services, water lines, sewer or disposal lines, gas lines, landscaping, trees, grass, swimming pool and accessories, club room and furniture, fixtures

- \* Together with all lands lying between the Easterly line of State Road # A-1-A and the Atlantic Ocean, and between the Northerly and Southerly lines of said described parcel extended Easterly, together with all riparian, Littoral and shore rights appertaining thereto,

and accessories, laundry room, sidewalks, driveways, conduit, ducts, plumbing, pipes, wiring and all common elements.

Said easements include the right of ingress and egress over the property subservient thereto and is non-exclusive, but may be used and enjoyed in common by both the Owners of the Dominant and Subserviant Estate.

3.5 Improvements -- general description.

a. Apartment building. The condominium includes an apartment building consisting of a ground floor, and one additional floor, making a total of two floors.

b. Other improvements.

The condominium includes gardens and landscaping, automobile parking areas and other facilities located substantially as shown upon the plans and which are part of the common elements.

3.6 Apartment boundaries. Each apartment, which term as used in this subsection concerning boundaries shall include maids' rooms, shall include that part of the building containing the apartment that lies within the boundaries of the apartment, which boundaries are as follows:

a. Upper and lower boundaries. The upper and lower boundaries of the apartment shall be the following boundaries extended to an intersection with the perimetrical boundaries:

(1) Upper boundary -- the horizontal plane of the lower surfaces of the ceiling slab;

(2) Lower boundary -- the horizontal plane of the lower surfaces of the floor slab.

b. Perimetrical boundaries. The perimetrical boundaries of the apartment shall be the following boundaries extended

to an intersection with the upper and lower boundaries:

(1) Exterior building walls -- the intersecting vertical planes adjacent to and which include the exterior walls of the apartment building bounding an apartment and fixtures thereon, and when there is attached to the building a balcony, loggia, terrace, canopy, stairway or other portion of the building serving only the apartment being bounded, such boundaries shall be the intersecting vertical planes adjacent to and which include all of such structures and fixtures thereon. In the case of ground floor apartments, such boundaries shall include the terraces serving such apartments.

(2) Interior building walls -- the vertical planes of the center line of walls bounding an apartment extended to intersections with other perimetrical boundaries with the following exceptions:

(i) When walls between apartments are of varying thickness, or abut a column or shaft, the plane of the center line of a bounding wall shall be extended to an intersection with the connecting bounding plane without regard to the plane of the center line of an intervening column or shaft.

(ii) When walls of different thickness abut with a flush side so that their center lines do not intersect, the plane of the center line of the thinner wall shall be extended into the thicker wall for a distance which is one-half the thickness of the thinner wall, and the boundary shall thence run at a right angle to the plane of the center line of the thicker wall.

3.7 Common elements. The common elements include the land



and all other parts of the condominium not within the apartments and include but are not limited to the following items as to which the Association shall have the powers indicated:

a. Automobile parking areas. Automobile parking will be made available to apartment owners. The Association shall have authority to make reasonable charges for the parking of automobiles in such parking area and the same will be available pursuant to the regulations of the Association.

b. Use; charges. The foregoing and all other common elements shall be available for use by all apartment owners without discrimination. Such use will be without charge except when specifically authorized by this Declaration, except that the Association when authorized by its regulations may charge for the exclusive use of facilities from time to time if such exclusive use is made available to all apartment owners.

#### THE APARTMENTS

4. The Apartments. The apartments and private garage spaces of the condominium are described more particularly and the rights and obligations of their owners established as follows:

4.1 Apartment numbers. There are 38 apartments in the apartment building. The apartments are numbered in accordance with Schedule "A" attached.

4.2 Appurtenances to apartments. The owner of each apartment shall own a share and certain interests in the condominium property, which share and interests are appurtenant to his apartment, including but not limited to the following items that are ; appurtenant to the several apartments as indicated:

a. Common elements and common surplus. The undivided share in the land and other common elements and in the common surplus which are appurtenant to each apartment is as follows:

An undivided 1/38th share to each Apartment

38 such apartments =  $38 \times 1/38$  . . Total 100%

b. Automobile parking space. The common elements include parking areas for automobiles of the apartment owners in addition to the private garages. Parking areas will not be assigned but will be available for use pursuant to the regulations of the Association.

c. Association membership. The membership of each apartment owner in the Association and the interest of each apartment owner in the funds and assets held by the Association.

4.3 Liability for common expenses. Each apartment owner shall be liable for a proportionate share of the common expenses, such share being the same as the undivided share in the common elements appurtenant to his apartment.

5. Maintenance, alteration and improvement. Responsibility for the maintenance of the condominium property, and restrictions upon its alterations and improvement, shall be as follows:

5.1 Apartments.

a. By the Association. The Association shall maintain, repair and replace at the Association's expense:

(1) All portions of an apartment, except interior surfaces, contributing to the support of the apartment building, which portions shall include but not be limited to load-bearing columns and load-bearing walls.

(2) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services contained in the portions of an apartment maintained by the Association; and all such facilities contained within an apartment that service part or parts of the condominium other than the apartment within which contained, and;

(3) All incidental damage caused to an apartment by such work shall be repaired promptly at the expense of the Association.

b. By the apartment owner. The responsibility of the apartment owner shall be as follows:

(1) To maintain, repair and replace at his expense all portions of his apartment except the portions to be maintained, repaired and replaced by the Association. Such shall be done without disturbing the rights of other apartment owners.

(2) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the apartment building.

(3) To promptly report to the Association any defect or need for repairs for which the Association is responsible.

c. Alteration and improvement. Except as elsewhere reserved to Developer, neither an apartment owner nor the Association shall make any alteration in the portions of an apartment building that are to be maintained by the Association, or remove any portion of such, or make any additions to them, or do anything that would jeopardize the safety or soundness of the apartment building or impair any easement, without first obtaining approval in writing of owners of all apartments in which such work is to be done and

the approval of the board of directors of the Association. A copy of plans for all such work prepared by an architect licensed to practice in this state shall be filed with the Association prior to the start of the work.

5.2 Common elements.

a. By the Association. The maintenance and operation of the common elements shall be the responsibility of the Association and a common expense.

b. Alteration and improvement. After the completion of the improvements included in the common elements contemplated by this Declaration, there shall be no alteration nor further improvement of the real property constituting the common elements without prior approval in writing by the owners of not less than 75% of the common elements except as provided by the Bylaws. Any such alteration or improvement shall not interfere with the rights of any apartment owners without their consent. The cost of such work shall not be assessed against a bank, life insurance company or savings and loan association that acquires its title as the result of owning a mortgage upon the apartment owned, unless such owner shall approve the alteration or improvement, and this shall be so whether the title is acquired by deed from the mortgagor or through foreclosure proceedings. The share of any cost not so assessed to the other apartment owners in the shares that their shares in the common elements bear to each other. There shall be no change in the shares and rights of an apartment owner in the common elements altered or further improved, whether or not the apartment owner contributes to the cost

of such alteration or improvements.

6. Assessments. The making and collection of assessments against apartment owners for common expenses shall be pursuant to the Bylaws and subject to the following provisions:

6.1 Share of common expense. Each apartment owner shall be liable for a proportionate share of the common expenses, and shall share in the common surplus, such shares being the same as the undivided share in the common elements appurtenant to the apartments owned by him. Provided, however, that if services are made available to apartment owners from a revenue-producing operation, such as but not limited to the operation of a restaurant or bar, no assessment on account of such services shall be made against a bank, life insurance company or savings and loan association that acquires its title as a result of owning a first mortgage upon an apartment, and this shall be so whether the title is acquired by deed from the mortgagor or through foreclosure proceedings; but this shall not preclude such an assessment against an occupant of an apartment owned by such an institution for services voluntarily accepted by the occupant. The shares of any cost or loss not so assessed to the other apartment owners in the shares that their shares in the common elements bear to each other.

6.2 Interest; application of payments. Assessments and installments on such assessments paid on or before ten days after the date when due shall not bear interest, but all sums not paid on or before ten days after the date shall bear interest at the rate of ten percent per annum from the date when due until paid. All payments upon account shall be first applied to interest and then to the assessment payment first due.

6.3 Lien for assessments. The lien for unpaid assessments shall also secure reasonable attorneys' fees incurred by the Association incident to the collection of such assessment or enforcement of such lien.

6.4 Rental pending foreclosure. In any foreclosure of a lien for assessments the owner of the apartment subject to the lien shall be required to pay a reasonable rental for the apartment, and the Association shall be entitled to the appointment of a receiver to collect the same.

7. Association. The operation of the condominium shall be by the VILLA SERENO ASSOCIATION, INC., a corporation not for profit under the laws of Florida, which shall fulfill its functions pursuant to the following provisions:

7.1 Articles of Incorporation. A copy of the Articles of Incorporation of the Association is attached as Exhibit B.

7.2 The Bylaws of the Association shall be the bylaws of the condominium, a copy which is attached as Exhibit C.

7.3 Limitation upon liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable to apartment owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other owners or persons.

7.4 Restraint upon assignment of shares in assets. The share of member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as

an appurtenance to his apartment.

7.5 Approval or disapproval of matters. Whenever the decision of an apartment owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such owner if in an Association meeting, unless the joinder of record owners is specifically required by this Declaration.

8. Insurance. The insurance other than title insurance that shall be carried upon the condominium property and the property of the apartment owners shall be governed by the following provisions:

8.1 Authority to purchase; named insured. All insurance policies upon the condominium property shall be purchased by the Association. The named insured shall be the Association individually and as agent for the apartment owners, without naming them, and as agent for their mortgagees. Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of apartment owners. Such policies shall provide that payments by the insurer for losses shall be made to the Insurance Trustee designated below, and all policies and their endorsements shall be deposited with the Insurance Trustee. Apartment owners may obtain coverage at their own expense upon their personal property and for their personal liability and living expense.

8.2 Coverage.

a. Casualty. All buildings and improvements upon the land shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, and

all personal property included in the common elements shall be insured for its value, all as determined annually by the board of directors of the Association. Such coverage shall afford protection against:

- (1) loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and
- (2) such other risks as from time to time shall be customarily covered with respect to the buildings similar in construction, location and use as the buildings on the land, including but not limited to vandalism and malicious mischief.

b. Public liability in such amounts and with such coverage as shall be required by the board of directors of the Association, including but not limited to hired automobile and non-owned automobile coverages, and with cross liability endorsement to cover liabilities of the apartment owners as a group to an apartment owner.

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.

8.3 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.

8.4 Insurance trustee; shares of proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the apartment owners and their mortgagees as their interest may appear, and shall provide that all proceeds cov-



ering property losses shall be paid to the Ormond Beach First National Bank, as Trustee, or to such bank in Florida with trust powers as may be designated as insurance trustee by the board of directors of the Association, which trustee is referred to in this instrument as the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes elsewhere stated in this instrument and for the benefit of the apartment owners and their mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee:

a. Common elements. Proceeds on account of damage to common elements and undivided share for each apartment owner, such share being the same as the undivided share in the common elements appurtenant to his apartment.

b. Apartments. Proceeds on account of damage to apartments shall be held in the following undivided shares:

(1) When the building is to be restored - for the owners of damaged apartments in proportion to the cost of repairing the damage suffered by each apartment owner, which cost shall be determined by the Association.

c. Mortgagees. In the event a mortgagee endorsement has been issued as to an apartment, the share of the apartment owner shall be held in trust for the mortgagee and the apartment 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, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distribution of such proceeds made to the apartment owner and mortgagee pursuant to the provisions of this Declaration.

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

a. Expense of the trust. All expenses of the Insurance Trustee shall be paid first or provision made for such payment.

b. Reconstruction or repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost of such as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of an apartment and may be enforced by such mortgagee.

c. Failure to reconstruct or repair. If it is determined in the manner elsewhere provided that the damage for which proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being payable jointly by them. This is a covenant for the benefit of any mortgagee of an apartment and may be enforced by such mortgagee.

d. Certificate. In making distribution to apartment

owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to the names of the apartment owners and their respective shares of the distribution.

8.6 Association as agent. The Association is irrevocably appointed agent for each apartment owner and for each owner of a mortgage or other lien upon an apartment and for each owner of any other interest in the condominium property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

9. RECONSTRUCTION OR REPAIR AFTER CASUALTY

9.1 Determination to reconstruct or repair. If any part of the condominium property shall be damaged by casualty, whether or not it shall be constructed or repaired shall be determined in the following manner:

a. Common element. If the damaged improvement is a common element, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the condominium shall be terminated.

b. Apartment building.

(1) Lesser damage. If the damaged improvement is the apartment building, and if apartments to which 50% of the common elements are appurtenant are found by the board of directors of the Association to be tenantable, the damaged property shall be reconstructed or repaired unless within 60 days after the casualty it is determined by agreement in the manner elsewhere provided that the condominium shall be terminated.

(2) Major damage. If the damaged improvement is the apartment building, and if apartments to which more than 50% of the common elements are appurtenant are found by the board of directors to be not tenantable, then the damaged property will not be reconstructed or repaired and the condominium will be terminated without agreement as elsewhere provided, unless within 60 days after the casualty the owners of 75% of the common elements agree in writing to such reconstruction or repair.

c. Certificate. The insurance Trustee may rely upon a certificate of the Association made by its President and Secretary to determine whether or not the damaged property is to be reconstructed or repaired.

9.2 Plans and specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications approved by the board of directors of the Association, and if the damaged property is the apartment building, by the owners of not less than 75% of the common elements, including the owners of all damaged apartments, which approval shall not be unreasonably withheld.

9.3 Responsibility. If the damage is only to those parts of one apartment for which the responsibility of maintenance and repair is that of the apartment owner, then the apartment owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Association.

9.4 Estimates of costs. Immediately after a determination is made to rebuild or repair damage to property for which the As-

sociation has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

9.5 Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, assessments shall be made against the apartment owners who own the damaged apartments, and against all apartment owners in the case of damage to common elements, in sufficient amounts to provide funds for the payment of such costs. Such assessments against apartment owners for damage to apartments shall be in proportion to the cost of reconstruction and repair of their respective apartments. Such assessments on account of damage to common elements shall be in proportion to the owner's share in the common elements.

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

a. Association. If the total of assessments made by the Association in order to provide funds for payment of costs of reconstruction and repair that is the responsibility of the Association is more than \$5,000.00, then the sums paid upon such assessments shall be deposited by the Association with the Insurance Trustee. In all other cases the Association shall hold the sums

paid upon such assessments and disburse them in payment of the costs of reconstruction and repair.

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

(1) Association-lessor damage. If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Association is less than \$5,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Association, provided, however, that upon request to the Insurance Trustee by a mortgagee that is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided for the reconstruction and repair of major damage.

(2) Association-major damage. If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Association is more than \$5,000.00, then the construction fund shall be disbursed in payment of such costs in the manner required by the board of directors of the Association and upon approval of an architect qualified to practice in Florida and employed by the Association to supervise the work.

(3) Apartment owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with an apartment owner shall be paid

by the Insurance Trustee to the apartment owner, or if there is a mortgagee endorsement as to the apartment, then to the apartment owner and the mortgagee jointly, who may use such proceeds as they may be advised.

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

(5) Certificate. Notwithstanding the provisions of this instrument, the Insurance Trustee shall not be required to determine whether or not sums paid by the apartment owners upon assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund nor to determine the payee nor the amount to be paid. Instead, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to any or all of such matters and stating the name of the payee and the amount to be paid; provided that when a mortgagee is required in this instrument to be named as payee, the Insurance

Trustee shall also name the mortgagee as a payee of any distribution of insurance proceeds to a unit owner; and further provided that when the Association or a mortgagee that is the beneficiary of an insurance policy whose proceeds are included in the construction fund, so required, the approval of an architect named by the Association shall be first obtained by the Association upon disbursements in payment of costs of reconstruction and repair.

10. Use restrictions. The use of the condominium property shall be in accordance with the following provisions as long as the condominium exists and the apartment building in useful condition exists upon the land.

10.1 Apartments. Each of the apartments, together with the parking garages that are a part of them, shall be occupied only by a family, its servants and guests, as a residence and for no other purpose. Except as reserved to Developer, no apartment may be divided or subdivided into a smaller unit nor any portion sold or otherwise transferred without first amending this Declaration to show the changes in the apartments to be effected.

10.2 Common elements. The 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 apartments.

10.3 Nuisances. No nuisances shall be allowed upon the condominium property, nor any use or practice that is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate nor any



fire hazard allowed to exist. No apartment owner shall permit any use of his apartment or make any use of the common elements that will increase the cost of insurance upon the condominium property.

10.4 Lawful use. No immoral, improper, offensive or unlawful use shall be made of the condominium property nor any part of it; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies for maintenance, modification or repair of the condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned.

10.5 Leasing. After approval by the Association elsewhere required, entire apartments may be rented provided the occupancy is only by the lessee and his family, its servants and guests. No rooms may be rented, no maids' rooms may be rented except as a part of an apartment or to another apartment owner, and no transient tenants may be accommodated.

10.6 Regulations. Reasonable regulations concerning the use of condominium property may be made and amended from time to time by the Association in the manner provided by its Articles of Incorporation and Bylaws. Copies of such regulations and amendments shall be furnished by the Association to all apartment owners and residents of the condominium upon request.

10.7 Proviso. Provided, however, that until Developer has completed all of the contemplated improvements and closed the sales of all of the apartments and maids' rooms of the condominium, neither the apartment owners nor the Association nor the use of the

condominium property shall interfere with the completion of the contemplated improvements and the sale of the apartments. 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 property and the display of signs.

11. Maintenance of Community interests. In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the apartments, the transfer of apartments by any owner other than the Developer shall be subject to the following provisions as long as the condominium exists upon the land, which provisions each apartment owner covenants to observe:

11.1 Transfers subject to approval.

a. Sale. No apartment owner may dispose of an apartment or any interest in an apartment by sale without approval of the Association except to an apartment owner.

b. Lease. No apartment owner may dispose of an apartment or any interest in an apartment by lease without approval of the Association except to an apartment owner.

c. Gift. If any apartment owner shall acquire his title by gift, the continuance of his ownership of his apartment shall be subject to the approval of the Association.

d. Devise or inheritance. If any apartment owner shall acquire his title by devise or inheritance, the continuance of his ownership of his apartment shall be subject to the approval of the Association.

e. Other transfers. If any apartment owner shall ac-

quire his title by any manner not considered in the foregoing subsections, the continuance of his ownership of his apartment shall be subject to the approval of the Association.

11.2 Approval by Association. The approval of the Association that is required for the transfer or ownership of apartments shall be obtained in the following manner:

a. Notice to Association.

(1) Sale. An apartment owner intending to make a bona fide sale of his apartment or any interest in it shall give to the Association notice of such intention, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as the Association may reasonably require. Such notice at the apartment owner's option may include a demand by the apartment owner that the Association furnish a purchaser of the apartment if the proposed purchaser is not approved; and if such demand is made, the notice shall be accompanied by an executed copy of the proposed contract to sell.

(2) Lease. An apartment owner intending to make a bona fide lease of his apartment or any interest in it shall give to the Association notice of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as the Association may reasonably require and an executed copy of the proposed lease.

(3) Gift; devise or inheritance; other transfers.  
An apartment owner who has obtained his title by gift, devise or inheritance, or by any other manner not previously considered, shall give to the Association notice of the acquiring of his title, to

gether with such information concerning the apartment owner as the Association may reasonably require, and a certified copy of the instrument evidencing the owner's title.

(4) Failure to give notice. If the above required notice to the Association is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of an apartment, the Association at its election and without notice may approve or disapprove the transaction or ownership. If the Association disapproves the transaction or ownership, the Association shall proceed as if it had received the required notice on the date of such disapproval.

b. Certificate of approval.

(1) Sale. If the proposed transaction is a sale, then within 30 days after receipt of such notice and information the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the President and Secretary of the Association, which shall be recorded in the public records of Volusia County, Florida at the expense of the purchaser.

(2) Lease. If the proposed transaction is a lease, then within 30 days after receipt of such notice and information the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the President and Secretary of the Association in recordable form, which, at the election of the Association, shall be delivered to the lessee or shall be recorded in the public records of Volusia County, Florida at the expense of the lessee.

(3) Gift; devise or inheritance; other transfers.

If the apartment owner giving notice has acquired his title by gift, devise or inheritance or in any other manner, then within 30 days after receipt of such notice and information the Association must either approve or disapprove the continuance of the apartment owner's ownership of his apartment. If approved, the approval shall be stated in a certificate executed by the President and Secretary of the Association, which shall be recorded in the public records of Volusia County, Florida at the expense of the apartment owner.

c. Approval of corporate ownership or purchaser.

Inasmuch as the condominium may be used only for residential purposes and a corporation cannot occupy an apartment for such use, if the apartment owner or purchaser of an apartment is a corporation, the approval of ownership by the corporation may be conditioned by requiring that all persons occupying the apartment be approved by the Association.

11.3 Disapproval by Association. If the Association shall disapprove a transfer or ownership of an apartment, the matter shall be disposed in the following manner:

a. Sale. If the proposed transaction is a sale and if the notice of sale given by the apartment owner shall so demand, then within 30 days after receipt of such notice and information the Association shall deliver or mail by registered mail to the apartment owner an agreement to purchase the apartment concerned by a purchaser approved by the Association who will purchase and to whom the apartment owner must sell the apartment upon the following terms:

(1) At the option of the purchaser to be stated in the agreement, the price to be paid shall be that stated in the disapproved contract to sell or shall be the fair market value determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the apartment; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

(2) The purchase price shall be paid in cash.

(3) The sale shall be closed within 30 days after the delivery or mailing of the agreement to purchase, or within 10 days after the determination of the sale price as such is by arbitration, whichever is the later.

(4) A Certificate of the Association executed by its President and Secretary and approving the purchaser shall be recorded in the public records of Volusia County, Florida, at the expense of the purchaser.

(5) If the Association shall fail to provide a purchaser upon the demand of the apartment owner in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval, the proposed transaction shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided, which shall be recorded in the public records of Volusia

County, Florida, at the expense of the purchaser.

b. Lease. If the proposed transaction is a lease, the apartment owner shall be advised of the disapproval in writing, and the lease shall not be made.

c. Gifts; devise or inheritance; other transfers.

If the apartment owner giving notice has acquired his title by gift, devise or inheritance, or in any other manner, then within 30 days after receipt from the apartment owner of the notice and information required to be furnished, the Association shall deliver or mail by registered mail to the apartment owner an agreement to purchase the apartment concerned by a purchaser approved by the Association who will purchase and to whom the apartment owner must sell the apartment upon the following terms:

(1) The sale price shall be the fair market value determined by agreement between the seller and purchaser within 30 days from the delivery or mailing of such agreement. In the absence of agreement as to price, the price shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the apartment; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

(2) The purchase price shall be paid in cash.

(3) The sale shall be closed within 10 days following the determination of the sale price.

(4) A Certificate of the Association executed by its President and Secretary and approving the purchaser shall be recorded in the public records of Volusia County, Florida, at the expense of the purchaser.

(5) If the Association shall fail to provide a purchaser as required by this instrument, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval such ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided, which shall be recorded in the public records of Volusia County, Florida, at the expense of the apartment owner.

11.4 Mortgage. No apartment owner may mortgage his apartment nor any interest in it without the approval of the Association except to a bank, life insurance company or a savings and loan association, or to a vendor to secure a portion or all of the purchase price. The approval of any other mortgagee may be upon conditions determined by the Association or may be arbitrarily withheld.

11.5 Exceptions. The foregoing provisions of this section entitled "Maintenance of Community Interests" shall not apply to a transfer to or purchase by a bank, life insurance company or savings and loan association that acquires its title as the result of owning a mortgage upon the apartment concerned, and this shall be so whether the title is acquired by deed from the mortgagor, his successors or assigns, or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by a bank, life insurance company or savings and loan association that so acquires its title. Neither shall such provisions require the approv-



al of a purchaser who acquires the title to an apartment at a duly advertised public sale with open bidding provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale.

11.6 Unauthorized transactions. Any sale, mortgage or lease not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

12. Compliance and default. Each apartment owner shall be governed by and shall comply with the terms of the Declaration of Condominium, Articles of Incorporation and Bylaws and the Regulations adopted pursuant to those documents, and all of such as they may be amended from time to time. Failure of an apartment owner to comply with such documents and regulations shall entitle the Association or other apartment owners to the following relief in addition to the remedies provided by the Condominium Act.

12.1 Negligence. An apartment owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. An apartment owner shall pay the Association the amount of any increase in its insurance premiums occasioned by use, misuse, occupancy or abandonment of an apartment or its appurtenances, or of the common elements, by the apartment owner.

12.2 Costs and attorneys' fees. In any proceeding arising because of an alleged failure of an apartment owner or the Association to comply with the terms of the Declaration, Articles of In-

corporation of the Association, the Bylaws, or the Regulations adopted pursuant to them, and the documents and Regulations as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the court.

12.3 No waiver of rights. The failure of the Association or any apartment 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 Regulations shall not constitute a waiver of the right to do so thereafter.

13. Amendments. Except as elsewhere provided otherwise, this Declaration of Condominium may be amended in the following manner:

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

13.2 A resolution for the adoption of a proposed amendment may be proposed by either the board of directors of the Association or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, providing such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approval must be either by:

a. not less than 75% of the entire membership of the board of directors and by not less than 75% of the votes of the entire membership of the Association; or

b. not less than 80% of the votes of the entire mem-

bership of the Association; or

c. until the first election of directors, only by all of the directors, provided the amendment does not increase the number of apartments nor alter the boundaries of the common elements.

13.3 Proviso. Provided, however, that no amendment shall discriminate against any apartment owner nor against any apartment or class or group of apartments, unless the apartment owners so affected shall consent; and no amendment shall change any apartment nor the share in the common elements appurtenant to it, nor increase the owner's share of the common expenses, unless the record owner of the apartment concerned and all record owners of mortgages on such apartment shall join in the execution of the amendment. Neither shall an amendment make any change in the section entitled "Insurance" nor in the section entitled "Reconstruction or repair after casualty" unless the record owners of all mortgages upon the condominium shall join in the execution of the amendment.

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

14. Termination. The condominium may be terminated in the following manner in addition to the manner provided by the Condominium Act:

14.1 Destruction. If it is determined in the manner else-

where provided that the apartment building shall not be reconstructed because of major damage, the condominium plan of ownership will be terminated without agreement.

14.2 Agreement. The condominium may be terminated at any time by the approval in writing of all record owners of apartments and all record owners of mortgages on apartments. If the proposed termination is submitted to a meeting of the members of the Association, the notice of the meeting giving notice of the proposed termination, and if the approval of the owners of not less than 75% of the common elements, and of the record owners of all mortgages upon the apartments, are obtained in writing not later than thirty (30) days from the date of such meeting, then the approving owners shall have an option to buy all of the apartments of the other owners for the period ending on the 60th day from the date of such meeting. Such approvals shall be irrevocable until the expiration of the option, and if the option is exercised, the approvals shall be irrevocable. The option shall be upon the following terms:

a. Exercise of option. The option shall be exercised by delivery or mailing by registered mail to each of the record owners of the apartments to be purchased an agreement to purchase signed by the record owners of apartments who will participate in the purchase. Such agreement shall indicate which apartments will be purchased by each participating owner and shall require the purchase of all apartments 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 purchaser within 30 days from the delivery or mailing of such agreement, and in the absence of agreement as to price it shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the apartment; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

c. Payment. The purchase price shall be paid in cash.

d. Closing. The sale shall be closed within 10 days following the determination of the sale price.

14.3 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 as to the facts effecting the termination, which certificate shall become effective upon being recorded in the public records of Volusia County, Florida.

14.4 Shares of owners after termination. After termination of the condominium the apartment owners shall own the condominium property and all assets of the Association as tenants in common in undivided shares that shall be the same as the undivided shares in the common elements appurtenant to the owners' apartments prior to the termination.

14.5 Amendment. This section concerning termination cannot be amended without consent of all apartment owners and of all record owners of mortgages upon the apartments.

15. SEVERABILITY AND CONCLUSION

15. Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, 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.

IN WITNESS WHEREOF, the Developer has executed this Declaration the day and year first above written.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
JOHN LEDBETTER, Individually and  
as Trustee under the provision of  
a certain Trust Agreement, dated  
the \_\_\_\_\_ day of \_\_\_\_\_,  
1972. (SEAL)

\_\_\_\_\_  
JOYCE H. LEDBETTER, his wife. (SEAL)

STATE OF FLORIDA  
COUNTY OF VOLUSIA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared JOHN LEDBETTER, Individually and as Trustee, under the provisions of a certain Trust Agreement, dated the \_\_\_\_\_ day of \_\_\_\_\_, 1972, joined by his wife, JOYCE H. LEDBETTER, to me known to be the persons described in and who executed the foregoing instrument and they acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 1972.

\_\_\_\_\_  
Notary Public, State of  
Florida at Large.

My commission expires: