

PROPOSED DECLARATION OF CONDOMINIUM

EXHIBIT 2

FUTURA YACHT CLUB, BUILDING A,
a Condominium

DECLARATION OF CONDOMINIUM

Kuzca, S.A., a Panamanian corporation, being the holder of title of record to the following described property, situate, lying and being in Monroe County, Florida, to-wit:

See legal description attached hereto and made a part hereof as Exhibit "A",

hereby states and declares that said realty is subject to condominium ownership pursuant to Laws of Florida Chapter 718, (hereinafter referred to as the "Condominium Act"), the provisions of which said Act are hereby incorporated by reference and included herein thereby, and does hereby record this Declaration.

*Pages
1 & 2*

This Declaration of Condominium encompasses a condominium project. At the time of recording, building A is not substantially completed.

Definitions. As used in this Declaration, the By-Laws attached hereto, and all amendments thereto, unless the context otherwise required:

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

(2) Association or Corporation means Futura Yacht Club Building A Association, Inc., a non-profit corporation, entity responsible for the operation of the condominium project.

(3) Unit, or Apartment Unit, or Individual Unit, means a part of the condominium property which is to be subject to private ownership; said units being as

specifically designated, identified and located upon the exhibits attached to this Declaration.

(4) Condominium Parcel means a unit, together with the undivided share in the common elements which are appurtenant to the unit.

(5) Unit Owner, or Owner of a Unit, or Parcel Owner, is the owner of a condominium parcel.

(6) Common Elements means those portions of the condominium property not included in the units.

(7) Limited Common Elements means and includes those common elements which are reserved for the use of a certain unit to the exclusion of all other units.

(8) Institutional First Mortgagee means a bank, savings and loan association, insurance company, or bona fide mortgage company authorized to do business in Florida.

(9) Club shall mean and refer to the private club which will occupy and operate any and all recreational areas.

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

II

NAME

The name by which this condominium is to be identified is:

FUTURA YACHT CLUB BUILDING A, a Condominium

III

IDENTIFICATION OF UNITS

The condominium property consists of a thirty-six (36) unit building, together with the land above described and other improvements as indicated upon the exhibits attached hereto.

The building known as FUTURA YACHT CLUB BUILDING A, a Condominium, includes: a ground floor, an entrance lounge, laundry room, storage lockers, a trash room and chute, mail room and elevator, to be utilized for common purposes. For purposes of identification, each apartment unit has been numbered and has been assigned a number as follows:

CONDOMINIUM APARTMENT UNIT NUMBERS

36 units:

101, 102, 103, 104, 105, 106, 201, 202, 203, 204, 205, 206,
301, 302, 303, 304, 305, 306, 401, 402, 403, 404, 405, 406,
501, 502, 503, 504, 505, 506, 601, 602, 603, 604, 605, 606.

Surveys of the land (including a location sketch thereof showing the location of all the residential buildings and the recreation are and other common areas) and improvements comprising the condominium property, which graphically describe the location, dimensions and size of said improvements and of the individual units, consisting of 12 sheets prepared by Caribbean Land

Surveyors, Inc., Miami, Dade County, Florida, as per Section 718.104 (as amended) of the Condominium Act are identified as Exhibits "A" and "B" and attached hereto and made a part hereof. The term "apartment" or "apt." as used in said surveys and floor plans is synonymous with the term "unit" as used in this Declaration. All legends and notes contained within said plans and surveys have been certified in the manner required by the Condominium Act, and are to be read in conjunction with the wording of this Declaration.

IV

OWNERSHIP OF COMMON ELEMENTS

Each of the unit owners of the Condominium shall own an undivided share and interest in the common elements and limited common elements as shown in the schedule attached hereto and made a part hereof, and identified as Exhibit "5". The fee title to each condominium parcel

shall include both the condominium unit and said undivided interest in the common elements, said undivided interest in the common elements to be deemed to be conveyed, leased or encumbered with its respective condominium unit even though the description in the instrument of conveyance, lease or encumbrance may refer only to the condominium unit. Any attempt to separate the fee title to a condominium unit from the undivided interest in the common elements appurtenant to such unit shall be null and void.

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

(a) Common Elements. The undivided share in land and other common elements which are appurtenant to each apartment, as set forth in Exhibit "C" attached.

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

(c) Use Of Common Elements. The right to use and enjoy the common elements, subject to the provisions of this Declaration, the By-Laws, and such rules and regulations which may from time to time be established by the Board of Directors of the Association.

V

COMMON EXPENSES AND COMMON SURPLUS

Each apartment shall be liable for a proportionate share of the common expenses and shall be entitled to a share of the common surplus, as set forth in Exhibit "C" attached. The foregoing right to a share of the common surplus does not include the right to

withdraw or require payment or distribution of the same. Any common surplus of the Association shall similarly be owned by each of the unit owners in like proportion to their respective liability for common elements.

VI

VOTING RIGHTS

Subject to the provisions and restrictions set forth in the By-Laws of the Association, each unit is entitled to one (1) vote.

VII

METHOD OF AMENDMENT OF DECLARATION

This Declaration may be amended at any regular or special meeting of the unit owners of this Condominium, called and convened in accordance with the By-Laws, by the affirmative vote of 3/4ths (75%) of the unit owners present (in person or by proxy) and voting at such meeting. In the alternative, an amendment may be made by an agreement signed and acknowledged by seventy-five percent (75%) of the record owners of apartments in the condominium in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the Public Records of Monroe County, Florida. All amendments shall be recorded and certified as required by the Condominium Act.

The Developer retains the right to amend this Declaration until all buildings in the entire condominium project have been substantially completed and seventy-five percent (75%) of the units contained in the entire condominium project have been sold and leased.

No amendment shall change any condominium parcel, nor a condominium unit's proportionate share of the common elements, or common expenses, or common surplus, nor the voting rights pertinent to any unit, unless the record owner(s) thereof and all record owners or mortgagees thereon shall join in the execution of the amendment. No amendment of the Declaration shall impair the lien of any mortgage on any parcel.

VIII

BY-LAWS

The operation of the condominium property shall be governed by the By-Laws, which are set forth in a document entitled "By-Laws of Futura Yacht Club Building A Condominium Association, Inc." as recorded ----- in the Public Records of Monroe County, Florida, a copy of which is annexed to this Declaration. No modification of or amendment to the By-Laws of said Association shall be valid unless set forth in or annexed to duly recorded amendment to this Declaration. The By-Laws may be amended in the same manner as this Declaration may be amended.

IX

THE OPERATING ENTITY

The name of the Association responsible for the operation of the Condominium is Futura Yacht Club Building A Condominium Association, Inc., a non-profit Florida corporation organized and existing pursuant to the Condominium Act. Said Association shall have all of the powers and duties of non-profit corporations set forth in Section 617.201 Florida Statutes, and set forth in the Condominium Act, as well as all of the powers and duties as are granted to or imposed upon it by this Declaration, the By-Laws of said Association, and its Articles of Incorporation.

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

X

ASSESSMENTS

The Association, through its Board of Directors, shall have the power to fix and determine from time to time the sum or sums

D. J. [unclear]

necessary and adequate to provide for the common expenses of the condominium property and to levy and collect assessments for the purposes and in the manner set forth in this Declaration and the Condominium Act. The procedure for the determination of such assessments shall be as set forth in the By-Laws of the Association.

Assessments not paid when due shall bear interest at the rate of ten percent (10%) per annum from due date until paid. All expenses, including reasonable attorney's fees incurred by the Association incident to the collection of such assessment or the enforcement of a lien of the Association shall be payable by the unit owner(s). The Association shall have a lien on each condominium parcel for any unpaid assessments against it, together with interest thereon, and expenses, if any, including attorney's fees incidental thereto. The Board of Directors may take such action as they deem necessary to collect assessments by personal action or by enforcing and foreclosing said lien, and may settle and compromise the same if in the best interests of the Association. Said lien shall be effective as and in the manner provided for by the Condominium Act and shall have the priorities established by said Act. The Association shall be entitled to a bid at any sale held pursuant to a suit to foreclose an assessment lien and to apply as a cash credit against its bid all sums due the Association covered by the lien enforced. At time of such foreclosure, the unit owner shall be required to pay a reasonable rental for the condominium parcel, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect same.

Where an institutional mortgagee or a first mortgagee of record, or other purchaser of a condominium unit obtains title to the condominium parcel as a result of foreclosure by an institutional mortgagee of such first mortgage, or where an institutional first mortgagee of record or its nominee accepts a deed

to said condominium parcel in lieu of foreclosure, such acquirer of title, its successors and assigns, shall not be liable for the share of common expenses of assessments by the Association pertaining to such condominium parcel or chargeable to the former unit owner of such parcel which became due prior to acquisition of title as a result of the foreclosure, or acceptance of such deed in lieu of foreclosure (such deed shall not be deemed a voluntary conveyance under Section 718.116(1) of the Condominium Act). Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the unit owners other than the acquirer, its successors and assigns.

Any person who acquires the ownership of a condominium parcel, including, without limitation, persons acquiring title by operation of law (except through foreclosure of a first institutional mortgage of record, or deed in lieu thereof, as specifically provided in the immediately preceding paragraph) and purchasers at judicial sales, shall not be entitled to occupancy of the unit or enjoyment of the common elements until such time as all unpaid assessments due and owing by the former unit owner have been paid.

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

XI

PROVISIONS RELATING TO SALE OR RENTAL OF CONDOMINIUM UNIT

A. Association shall have First Right of Refusal.

In the event unit owner desires to sell, rent or lease his unit, the association shall have the option to purchase, rent, or lease said unit at the same price or rental and upon the same terms and conditions as are offered by the

unit owner to any third person. Any attempt to sell, or rent, or lease said unit without prior offer to the Association shall be deemed a breach of this Declaration, shall be wholly null and void, and shall confer no title or interest whatsoever upon the intended purchaser, tenant, or lessee.

Should the unit owner wish to sell, lease, or rent his condominium parcel (which means the unit, together with the undivided share in the common elements which are appurtenant thereto) he shall, before making or accepting any offer to purchase, sell, lease, or rent his condominium parcel, deliver to the Board of Directors a written notice containing the terms of the offer he has received or which he wishes to accept or proposes to make, and the name, address and whereabouts or the person(s) to whom the proposed sale, lease, or transfer is to be made, and such other information (to be requested within five (5) days from receipt of such notice) as may be required by the Board of Directors. Said notice shall be accompanied by fee as determined by the Condominium Association, from time to time, payable to the Condominium Association to cover screening of prospective purchasers, or other expenses said Association might incur.

The Board of Directors, within thirty (30) days after receiving such notice and information, shall either consent to the transaction specified in said notice, or, by written notice to be delivered to the unit owner's unit (or mailed to the place designated by the unit owner in his notice) designate that the Association, one or more persons then unit owners, or any other person or persons satisfactory to the

to the Board of Directors, is willing to purchase, lease, or rent upon the same terms as those specified in the unit owner's notice. That stated designee (s) of the Board shall have seven (7) days from the date of the notice sent by the Board of Directors to make a binding offer to buy, lease, or rent upon the same terms specified in the unit owner's notice. Thereupon, the unit owner shall either accept such offer or withdraw and/or reject the offer specified in this notice to the Board of Directors. Failure of the Board of Directors to designate such person or persons within said thirty (30) day period, or failure of such person or persons to make such an offer within said seven (7) day period, shall be deemed consent by the Board of Directors to the transaction specified in the unit owner's notice, and the unit owner shall be free to make or accept the offer specified in his notice, and sell, lease or rent said interest pursuant thereof to the prospective purchaser or tenant named therein within ninety (90) days after his notice was given.

Any sub-leasing or assignment of a unit shall be subject to the same limitations as are applicable to the leasing or renting thereof. The Board of Directors shall have the right to require that a substantially uniform form of lease or sub-lease be used.

The liability of the unit owner under these covenants shall continue notwithstanding the fact that he may have leased or rented said interest as provided herein. Every purchaser, lessee, and sub-lessee shall take subject to this Declaration and the By-Laws of the Association, as well as the provisions of the Condominium Act. No apartment owner may mortgage his apartment nor any interest therein without the approval of the Association, except to a bank, life insurance company, savings and loan association, or the Declarer. The approval of any other mortgagee may be upon conditions determined by the Association or may be arbitrarily withheld.

B. Special Provisions Re: Sale, Leasing, etc.
by Institutional Mortgagees, Developer, and Intra-Family
Transfers.

(1) Should any condominium unit or parcel at any time become subject to an institutional first mortgage, the holder thereof, or its nominee, or a purchaser at foreclosure sale, upon becoming the owner of said condominium parcel through foreclosure, deed in lieu of foreclosure, or other means, and its immediate grantee, shall have the unqualified right to sell, lease, or otherwise transfer said unit, including the fee ownership thereof, without prior offer to the Board of Directors, the provisions of Paragraph A above, to be inapplicable.

(2) The provisions of Paragraph A of this Article shall not be applicable to Kuzca, S.A. (or its individual stockholders in the event of dissolution), which is recognized as the Developer of the condominium project, and which corporation is irrevocably empowered to sell, lease, or rent condominium units to any purchaser or lessee approved by it. The said Developer shall have the right to transact any business necessary to consummate sales of units, including, but not limited to the right to maintain models, have signs, employees in the offices, use the elevators and common elements, and to show apartments. Sales office, signs, and all items pertaining to sales shall not be considered common elements and remain the property of the Developer. In the event there are unsold parcels, the Developer retains the right to be the owner of unsold parcels under the same terms and conditions except as herein set forth, as all other parcel owners in said condominium, and Developer, as parcel owner, shall contribute to the common expenses

in the same manner as other parcel owners, but only after one (1) year from issuance of certificate of occupancy.

(3) The provisions of Paragraph A of this Article shall not apply to transfers by a unit owner to any member(s) of his immediately family, which is defined for this purpose as spouse, children, or parents.

XII

INSURANCE PROVISIONS

The Board of Directors shall procure and maintain insurance coverage covering the operation of the Condominium and the improvements comprising the condominium property against such risks and in such amounts as the Board of Directors may reasonably determine to be necessary, or in the best interests of the Association, the unit owners, and the mortgagees, or as may be reasonably required by institutional mortgagees, including, but not limited to, the coverages specified in Paragraphs A and B below. Premiums for the procural of such insurance, fees paid to the Insurance Trustee, and such other expenses and fees as are incurred which may be necessary or incidental to the procural and maintenance of such insurance coverage shall be chargeable as a common expense payable in proportion to their ownership of common elements by each of the unit owners. All insurance shall be for ~~the~~ benefit of the Association.

A. Liability Insurance.

The Board of Directors of the Association shall procure public liability and property damage insurance covering all of the common elements of the Condominium, the minimum limits thereof to be \$100,000.00, personal injury and \$250,000.00 property damage. Each unit owner shall be responsible for the purchase of liability insurance to cover accidents occurring within his own unit and within any limited common element appurtenant thereto.

B. Casualty Insurance.

(1) Amount and Type of Coverage. The Association shall obtain and maintain casualty insurance covering all of the common elements of the Condominium, limited common elements, and units, in an amount equal to the maximum insurance replacement value thereof, exclusive of excavation and foundation costs if the Association so determines, as determined by the Board of Directors of the Association, such coverage to afford protection against (i) loss or damage by fire or other hazards covered by the standard extended coverage or other perils endorsement; and (ii) such other risks of a similar or dissimilar nature as are or shall be customarily covered with respect to buildings and improvements similar in construction, location and use, including, but not limited to, vandalism, malicious mischief, windstorm, water damage, and war risk insurance, if available, provided, further, however, that the insurer's form and amount of coverage must be satisfactory to a majority of the institutional mortgagees holding mortgages upon condominium parcels. The term "majority of the institutional mortgagees" shall mean the institutional holder(s) of debts secured by first mortgages, the unpaid balance of which is more than one-half (1/2) the unpaid principal balance of all first mortgages on said units.

(2) Loss Payable Provisions. All policies of casualty insurance covering the Condominium shall provide for the insurance proceeds covering any loss to be payable to the Insurance Trustee named or to be named as hereinafter provided, or to its successor, and all

such insurance proceeds from any casualty loss shall be held for the use and benefit of the Association, or the owners of units, and the respective mortgagees, as their interest may appear, such insurance proceeds to be applied or distributed in the manner herein provided.

(3) Insurance Trustee. The Insurance Trustee shall be a banking institution or title company having trust powers and doing business in Monroe County, Florida. The Insurance Trustee shall not be liable for the payment of premiums, nor for the sufficiency of coverage, nor for the form or content of policies, nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive the proceeds of casualty insurance as are paid and to hold and distribute same for the benefit of the Association, the unit owners, and their respective mortgagees in the manner hereinafter provided, or in the manner provided by the terms of any supplemental agreement(s) entered into between the Insurance Trustee and the Association, which may enlarge, clarify, or better particularize, but which shall not be inconsistent with any of the provisions herein set forth. Said Insurance Trustee shall be liable only for its willful misconduct, bad faith, or gross negligence, and then only for such money as may come into its possession as Insurance Trustee. The initial Insurance Trustee shall be designated by holder of the underlying mortgage upon the condominium project, subject to the approval of the Board of Directors, which approval shall not be unreasonably withheld. Thereafter, the Insurance Trustee shall be designated by the Association subject to the approval of a majority

of institutional mortgagees as hereinabove defined.

(4) Loss Within Single Unit. If a loss or damage shall occur within a single unit or units, without damage to the common elements or limited common elements, the insurance proceeds shall be paid over by the Insurance Trustee to the unit owner(s) as his (their) mortgagees; provided, that said proceeds shall then be used by the unit owner for the reconstruction and repair of said unit, unless required to be applied in reduction of an institutional mortgage upon said unit.

(5) Loss Less Than "Very Substantial" Involving Common Elements. As promptly as is possible and feasible after a casualty causing damage to any part of the condominium property, the Board of Directors shall obtain reliable, professional and ~~detached~~ estimates of the cost necessary to repair and replace the damaged property to a condition as good as the condition that existed prior to the casualty loss (including the costs of any bond or professional fees determined to be necessary by the Board of Directors) and shall procure bids, negotiate contracts for said job, etc., provided, however, that if the cost of such repair and reconstruction exceeds \$10,000.00, all contracts shall be subject to approval by a majority of institutional mortgagees, as hereinabove defined. Unless the loss is "very substantial" as hereinafter defined (see Paragraph (6)), the Association and all unit owners shall repair and restore the damage caused by said casualty loss and all ~~insurance~~ insurance proceeds paid to the Trustee shall be applied for such purposes, and if insufficient, the Association shall levy assessments as hereinafter set forth.

(a) Loss to Common Elements Exclusive of Units. If the loss or damage is limited to the common elements or limited common elements with no or only nominal damage to any individual unit and the insurance proceeds are not or will not be sufficient to cover the cost of repair and reconstruction, the Board of Directors shall promptly upon determination of the deficiency levy a special assessment against all of the unit owners in proportion to their ownership of common elements, to cover such deficiency. The monies realized from such an assessment shall be deposited with the Insurance Trustee to be used together with the insurance proceeds for the purpose of repairing said damage and restoring said property.

(b) Loss to Common Elements and Individual Units. If the loss or damage involves the common elements or limited common elements, and individual units, and the insurance proceeds are not or will not be sufficient to cover the cost of repair and reconstruction, the Board of Directors shall promptly determine the extent of the deficiency and what portion of the deficiency is attributable to the common elements and limited common elements, and what portion is attributable to individually damaged units. Thereupon, the Board of Directors shall levy ~~a~~ special assessment ~~against~~ all of the unit owners in proportion to their ownership of common elements, for that portion of the deficiency as is attributable to the individual damaged units. The assessment against such individual unit owners shall be apportioned in such manner that the assessment levied

against each owner shall bear the same proportion to the total assessment levied against all such unit owners on account of the damage to such individual units as the cost of repair and reconstruction of his unit bears to the total cost of repair and reconstruction attributable to all such individually damaged units. If, however, in the opinion of the Board of Directors, it is practically impossible to make a reasonable estimate of the portion of the deficiency relating to the individually damaged units, the Board of Directors shall have the right to require that the entire loss be levied in proportion to their ownership of common elements against all of the unit owners in proportion to their ownership of common elements, and Director's discretion to be final and conclusive.

(6) Very Substantial Damages. As used herein, the term, "very substantial damage" shall mean damage amounting to sixty-six and two-thirds percent (66-2/3%) of the appraised value of the condominium improvements immediately prior to said loss. Estimates and appraisals required pursuant to the foregoing sentence shall be made by qualified persons designated by institutional mortgagees (banks, savings and loan associations, or insurance companies) holding seventy-five percent (75%) of outstanding mortgage loans upon condominium units. Should very substantial damage occur, then

(a) Institutional mortgagees holding seventy-five percent (75%) of the outstanding dollar volume of institutional mortgages shall have the right to elect (such election to be made within forty-five (45) days from the date of the casualty, either:

(i) to require application of insurance proceeds to the payment of their mortgage debts, in which case all mortgagees shall have the right to similarly require application of insurance proceeds to their mortgages,

(ii) to require that insurance proceeds be retained for purposes of reconstruction and repair, in which case all mortgagees shall be so bound, subject to the matters herein set forth, in which case all mortgagees and unit owners may be so bound.

(b) The Board of Directors shall as promptly as possible obtain reliable and detailed estimates of the cost of repair and restoration, and if such work is undertaken, shall negotiate contracts for such work, subject, however, to the approval of a designee of the majority of institutional mortgagees, which approval shall not be unreasonably withheld, subject to the approval of institutional mortgagees holding seventy-five percent (75%) of outstanding institutional unit mortgages.

(c) A membership meeting shall be called by the Board of Directors to be held as promptly as possible, but not later than sixty (60) days after the casualty, to determine the wishes of the membership with reference to the abandonment or reconstruction of the condominium project subject to the provisions hereinafter set forth.

(d) If the election has been made per paragraph (a)(i) above to apply insurance proceeds to mortgages, then if the remaining insurance proceeds available for reconstruction and repair are insufficient to cover the cost thereof so that a special assessment shall be required

to augment the insurance proceeds with sufficient funds to cover the costs of said reconstruction and repair, then the Condominium shall be abandoned and terminated, unless seventy-five percent (75%) of the membership present and voting shall consent to such reconstruction and such assessment, in which event all unit owners shall be bound. Each unit owner shall be obligated to replenish and replace insurance funds paid or payable to his mortgage.

(e) If the election has been made to apply insurance proceeds to reconstruction and repair (per paragraph (a)(ii) above) then

(i) If the insurance proceeds payable on account of such damage are sufficient to cover the cost of repair and reconstruction so that no special assessment shall be required, then said insurance proceeds shall be utilized for the purpose of such ~~repair~~ and reconstruction, unless sixty-six and two-thirds percent (66-2/3%) of the membership present and voting shall vote to abandon and terminate the condominium project.

(ii) If the insurance proceeds available for repair and reconstruction are insufficient to cover the cost thereof so that a special assessment shall be required to augment the insurance proceeds with sufficient funds to cover the cost of said reconstruction and repair, then the condominium shall be abandoned and terminated unless sixty percent (60%) of the membership present and voting shall consent to such reconstruction and such assessment, in which event all unit owners shall be bound.

(iii) If the insurance proceeds are not sufficient to cover the cost of repair and reconstruction and if, notwithstanding the determination of the membership to repair and reconstruct and the voting of a special assessment, the funds sufficient to cover the deficiency between the cost of reconstruction and the insurance proceeds are not deposited with the Insurance Trustee within ninety (90) days after the casualty, then the institutional mortgagees who have elected to apply the insurance proceeds to reconstruct and repair shall have the right to revoke such election and to require application of the insurance proceeds to mortgages pursuant to subparagraph (i) above.

(7) Additional Agreements Re: Insurance.

(a) The Association is hereby irrevocably agent for each unit owner for the purpose of adjusting, compromising and settling all claims arising under insurance policies purchased by the Association with full authority to execute Releases in favor of the insurer.

(b) In the event the insurance proceeds recovered are in excess of the cost of repair and reconstruction, the excess shall be (i) retained by the Association or (ii) distributed in proportion to their ownership of common elements to the Unit Owners and their mortgagees, as the Board of Directors may determine.

(c) Although it is intended and contemplated that a full cash fund will be available from insurance proceeds and/or assessments to cover the cost of repair or reconstruction, nothing herein shall be deemed to

prohibit the Association from proceeding with partial repair pending collection of said proceeds and assessments, should the circumstances so require and the majority of institutional mortgagees consent thereto.

(d) Should the Association fail to pay such premiums when due, or should the Association fail to comply with other insurance requirements of the institutional mortgagee holding the greatest dollar volume of unit mortgages, said institutional mortgagee shall have the right at its option to advance such sums as are required to maintain or procure such insurance, and to the extent of the money so advanced, said mortgagee shall be subrogated to the assessment and lien rights of the Association as against individual unit owners for the payment of such item of common expense.

8. Absolute Right of Institutional Mortgagee to Apply Insurance Proceeds to Loan Balances. Notwithstanding any provisions contained in this Article XII, any institutional mortgagee, holding a mortgage on any condominium unit or on the common elements, shall have the absolute right to apply any insurance proceeds realized as the result of any casualty loss to its loan balances.

9. In the event the Condominium Association should fail to make payment for the casualty insurance premiums on the policy covering the condominium property, or should it fail to provide adequate casualty insurance coverage, any institutional first mortgagee shall have

The right to make payment of such premium, or of any additional premium that may be required, and in addition to such lien rights as may be accorded to such institutional first mortgagee by virtue of any of its mortgages on parcels in the Condominium, it shall also have a lien, securing its right to reimbursement for any such premium payment, on all parcels in the Condominium it shall also have a lien, securing its right to reimbursement for any such premium payment, on all parcels in the Condominium, including those on which it may not have a mortgage, and which lien may be foreclosed as a mortgage; and each parcel shall be subject to such lien in proportion to its share of the common expenses.

XIII

USE AND OCCUPANCY

The unit owner, or owner of a unit, shall occupy and use his condominium parcel as a single family private dwelling and for no other purposes. The unit owner shall not permit or suffer anything to be done or kept in his unit which will increase the rate of insurance on the condominium property, or which will obstruct or interfere with the rights of other unit owners or annoy them by unreasonable noises, or otherwise; nor shall the unit owner commit or permit any nuisance, immoral or illegal act in or about the condominium property. No clotheslines or similar devices shall be allowed, except where designated by the Association, on any portion of the condominium property. Nor shall any clothing or any other objects be hung or displayed on the railings or other exterior portion of the premises.

Automobile Parking Spaces: Automobile parking spaces are set forth in the Plot Plan attached hereto.. At such time as the Developer may designate, and in any case not later than one (1)

year from the filing of this Declaration, the assignment of parking spaces and all questions relating to parking shall be determined by the Developer provided no parking space, once assigned, shall be re-assigned or changed, except for good cause. Parking spaces not assigned to particular units shall be available for general use by guests and visitors of all unit owners. Each parking space assigned to a unit owner is a limited common element as per (7) of the definitions of this Declaration of Condominium. Certain parking spaces may not be specifically assigned and the property on which they are designated may be owned by another entity and leased by the Association.

XIV

MAINTENANCE AND ALTERATIONS

A. The Board of Directors of the Association may enter into a contract with any firm, person or corporation for the maintenance and repair of the condominium property, and may join with other condominium corporations in contracting with the same firm, person or corporation for maintenance and repair.

B. There shall be no material alterations, door or color changes, or substantial additions to the common elements or limited common elements, except as the same are authorized by the Board of Directors and ratified by the affirmative vote of three-fourths (3/4ths) of the unit owners present at any regular or special meeting of the unit owners.

C. Each unit owner agrees:

(1) To maintain in good condition and repair his unit and all exterior surfaces within or surrounding his apartment unit and all interior surfaces within or surrounding his apartment (such as the surfaces of the walls, ceilings, floor), whether or not part of the apartment or common elements, and to maintain and repair

*Declaration
of the Board*

the fixtures and appliances therein and pay for such utilities as are separately metered to his unit.

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

(3) To make no alternation, decoration, repair, replacement, or change of the common elements, or to any outside or exterior portion of the building, whether within a unit or part of the common elements.

(4) To allow the Board of Directors or the agents or employees of the Association to enter into any unit for the purpose of maintenance, inspections, repair, or replacement of the improvements within units or the common elements threatening units or the common elements, or to determine compliance with the provisions of this Declaration and the By-Laws of the Association.

(5) To show no sign, advertisement, or notice of any type on the common elements or his unit, and erect no exterior antennae and aerials except as consented to by the Board of Directors of the Association.

(6) Not to cook or barbecue on the common elements or the balcony of his unit except as consented to by the Board of Directors of the Association.

XV

LIMITED COMMON ELEMENTS

Any expense of maintenance, repair, or replacement relating to limited common elements, shall be treated as and paid for as part of the common expenses of the Association, unless such maintenance, repair, etc., has been occasioned by any act or neglect of a unit owner, in which event such expense shall be borne by said unit owner.

XVI

TERMINATION

This Condominium may be voluntarily terminated in the manner provided for by Section 16 of the Condominium Act at any time. In addition thereto, when there has been "very substantial" damage as defined in Article XII, Paragraph B(5) above, then this Condominium shall be subject to termination as provided in Article XII, Paragraph B(5) above.

XVII

RECREATION AREA

The unit owners have the right to purchase a membership in Futura Yacht Club which will consist of a pool, two (2) tennis courts, a clubhouse, marina facilities and a beach area. The membership shall also be open to the public. The fees will be established by the Futura Yacht Club at a future time.

XVIII

MISCELLANEOUS PROVISIONS

A. The "common elements" shall remain undivided and no owner shall bring any action for partition, so long as the structure in question shall be utilized as a residential non-profit condominium apartment building.

B. The "condominium units" defined herein shall be used for single family residence purposes only and for no other purposes.

C. The unit owner shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding his respective apartment unit, nor shall said unit owner be deemed to own the pipes, wires, conduits, or other public utility lines running through his respective condominium unit, which are utilized to serve more than one "condominium unit". Said

perimeter walls, floors, ceilings, surfaces, pipes, wires, etc., are acknowledged to be and by these presents, hereby are made a part of the "common elements". The unit owner shall be deemed to own the walls and partitions which are contained within said owner's perspective unit, and also shall be deemed to own the inner decorated and/or finished surfaces of the perimeter walls, floors and ceilings, including plaster, paint, wallpaper, carpeting, etc., as well as the air conditioning equipment and ducts within his unit.

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

E. No owner of a condominium parcel may except himself from liability for his contribution towards the common expenses by waiver of the use and enjoyment of any of the common elements, or by the abandonment of his condominium unit.

F. The owners of each and every condominium parcel shall return the same for the purpose of ad valorem taxes with the Tax Assessor of Monroe County, Florida, or such other future legally authorized governmental officer or authority having jurisdiction over the same. Nothing herein shall be