



**RECORD AND RETURN TO:** ↘

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**MARTHA O. HAYNIE, COMPTROLLER**  
**ORANGE COUNTY, FL**  
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**DECLARATION OF CONDOMINIUM  
OF  
SUNPORT COMMERCE CENTER CONDOMINIUM**

ORLANDO SUNPORT FLEXXSPACE, LTD., a Florida limited partnership ("Developer"), as owner in fee simple of the "Land" (as hereinafter defined), whose principal office address is 1400 N.W. 107th Avenue, 5th Floor, Miami, Florida 33172, hereby makes this DECLARATION OF CONDOMINIUM OF SUNPORT COMMERCE CENTER CONDOMINIUM ("Declaration") to be recorded amongst the Public Records of Orange County, Florida ("County"), where the Condominium Property is located, and states and declares:

**1. SUBMISSION STATEMENT**

Developer is the owner of record of the "Condominium Property" (as hereinafter defined) and does hereby submit the Condominium Property to condominium ownership pursuant to the Condominium Act, Chapter 718, Florida Statutes, as amended through the date of recording this Declaration amongst the Public Records of the County ("Act").

**2. NAME**

The name by which the condominium created hereby ("Condominium") and the Condominium Property are to be identified is:

**SUNPORT COMMERCE CENTER CONDOMINIUM**

**3. LAND**

The land which will become the Condominium Property upon the recordation of this Declaration in the Public Records of Orange County, Florida, is described in Exhibit "A" ("Land") attached hereto and made a part hereof.

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#### 4. DEFINITIONS

The terms contained in this Declaration shall have the meanings given in the Act and, for clarification, the following terms have the following meanings:

4.1. "Act" means the Condominium Act, Chapter 718, Florida Statutes, as amended through the date of recording this Declaration amongst the Public Records of the County.

4.2. "Articles" means the Articles of Incorporation of the Association, attached as Exhibit "C" and incorporated herein by reference.

4.3. "Assessments" means the assessments for which all Unit Owners are obligated to the Association pursuant to the Act, as well as common law assessments which are created by this Declaration and are covenants running with the land, and include:

4.3.1. "Annual Assessment," which includes, but is not limited to, each Unit Owner's annual share of funds required for the payment of "Common Expenses," as determined in accordance with this Declaration (as to Unit Owners that have the use of a Staircase Limited Common Element, the Annual Assessment shall include the Staircase Limited Common Element Assessments levied by the Board to pay Staircase Limited Common Element Expenses; and

4.3.2. "Special Assessments," which include any Assessments levied by the Board in addition to the Annual Assessment and are more particularly described in Section 19.3 herein.

4.4. "Association" means Sunport Commerce Center Condominium Association, Inc., a Florida corporation not for profit, responsible for operating the Condominium.

4.5. "Board" means Board of Directors of the Association.

4.6. "Building(s)" means one of the structures containing the Units as more particularly defined in Section 5.1.

4.7. "Bylaws" means the Bylaws of the Association, attached hereto as Exhibit "D" and incorporated herein by reference.

4.8. "Common Elements" means:

4.8.1. The Condominium Property, other than the Units;

4.8.2. Support columns, even if located within the boundaries of a Unit;

4.8.3. Easements through the Units, as applicable, for conduit ducts, plumbing, wiring and other facilities for furnishing of utility or telecommunications services to a Unit and the Common Elements;

4.8.4. An easement of support in every portion of a Unit which contributes to the support of a "Building" or "Party Wall" (as such terms are hereinafter defined) submitted to condominium ownership;

4.8.5. Property and installations required for the furnishing of utility services and other services for more than one (1) Unit or the Common Elements or a Unit other than the Unit containing the installation; and

4.8.6. Such portion or portions of the Land, when, as and if same are submitted to condominium ownership.

4.9. "Common Expenses" means expenses for which Unit Owners are liable to the Association as defined in the Act and as described in the Condominium Documents and include:

4.9.1. The expenses for the operation, maintenance, repair or replacement of the Common Elements, costs of carrying out the powers and duties of the Association, cost of fire and extended coverage insurance;

4.9.2. Any other expenses designated, not inconsistent with the Act, as Common Expenses from time to time by the Board or designated as Common Expenses in this Declaration;

4.9.3. Any fees due and payable under any bulk cable agreement between a cable service provider and the Association.

4.9.3. "Limited Common Expenses" means expenses for which certain Unit Owners are liable to the Association as defined in the Act and as described in the Condominium Documents.

4.10. "Common Surplus" means the excess of receipts of the Association collected on behalf of the Condominium (including, but not limited to, assessments, rents, profits and revenues, on account of the Common Elements) over the Common Expenses.

4.11. "Condominium" means the Land and the improvements thereon being submitted to condominium ownership pursuant to this Declaration, as the same may be amended from time to time.

4.12. "Condominium Documents" means in the aggregate this Declaration, the Articles, Bylaws, any rules and regulations promulgated by the Association and all of the instruments and documents referred to therein and executed in connection with the Condominium and all amendments to the foregoing.

4.13. "Condominium Property" means the real property submitted to condominium ownership as part of the Condominium and all improvements thereon, including, but not limited to, the Units and the Common Elements. The easements described and set forth in this Declaration are intended to comply with Section 718.104(4)(m) of the Act. Notwithstanding anything contained herein to the contrary, however, the term "Condominium Property" shall not include any telecommunications lines and equipment owned by a utility and/or telecommunication firm(s) and/or

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other legal entity(ies) which have contracted with or have imposed other legal requirements upon Developer and/or the Association to provide a utility or telecommunications service and/or equipment nor shall Condominium Property include telecommunications equipment, if any, owned by Developer, the title to which is hereby specifically reserved unto Developer, its respective successors and/or assigns.

4.14. "County" means Orange County, Florida.

4.15. "Declaration" means this document and any and all amendments hereto.

4.16. "Developer" means Orlando Sunport Flexxspace, Ltd., a Florida limited partnership, its grantees, successors and assigns. Developer shall have the right to assign any and all of the rights and privileges reserved for Developer under this Declaration. A Unit Owner shall not, solely by the purchase of a Unit, be deemed a successor or assign of Developer or of the rights of Developer under the Condominium Documents unless such Unit Owner is specifically so designated as a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Developer.

4.17. "Institutional Mortgagee" means any lending institution having a mortgage lien upon a Unit, including, but not limited to, any of the following institutions or entities: (i) a federal or state savings and loan association or bank doing business in the State of Florida or a life insurance company doing business in Florida which is approved by the Commissioner of Insurance of the State of Florida, or bank or real estate investment trust, or a mortgage banking company licensed to do business in the State of Florida, or any subsidiary thereof licensed or qualified to make mortgage loans in the State of Florida or a national banking association chartered under the laws of the United States of America; or (ii) any and all investing or lending institutions ("Lenders") which have loaned money to Developer in order to enable Developer to acquire, or construct improvements upon, any portion of the Condominium and which holds a first mortgage upon such portion of the Condominium as security for such loan; or (iii) any pension or profit sharing funds qualified under the Internal Revenue Code; or (iv) other lenders generally recognized in the community as institutional lenders; or (v) such other Lenders as the Board shall hereafter designate as such in writing which have acquired a mortgage upon a Unit; or (vi) any Secondary Mortgage Market Institution as the Board shall hereafter designate as such in writing which has acquired a mortgage upon a Unit; or (vii) Developer, its successors and assigns.

4.18. "Interest" means the maximum nonusurious interest rate allowed by law on the subject debt or obligation and, if no such rate is designated by law, then eighteen percent (18%) per annum.

4.19. "Legal Fees" means: (i) reasonable fees for attorney and paralegal services incurred in negotiation and preparation for litigation, whether or not an action is actually begun, through and including all trial and appellate levels and post-judgment proceedings; and (ii) court costs through and including all trial and appellate levels and post-judgment proceedings.

4.20. "Limited Common Elements" means those Common Elements reserved for the use of certain Units to the exclusion of other Units, as more particularly described in Sections 5.3 hereof



4.21. "Listed Mortgagee" means the holder, insurer, or guarantor of a mortgage encumbering a Unit of which the Association has been notified pursuant to Section 27.5 herein.

4.22. "Occupant" means the occupant of a Unit who may be the Owner, the Owner's lessee, or their respective guest.

4.23. "Public Records" means the Public Records of the County.

4.24. "Sunport Commerce Center Condominium" means the name given to the Condominium which contains fifty-four (54) Units in four (4) one (1)-story buildings and other Common Elements and which is the subject of this Declaration.

4.25. "Unit" means a "Unit" as described in the Act and is that portion of the Condominium Property which is subject to exclusive ownership graphically described on Exhibit "B" to this Declaration. The boundaries of the Unit are defined as follows: (i) the upper boundaries shall be the unfinished surface of the underside surface of the roof; (ii) the parametrical boundary of the Unit shall be the vertical plane of the unfinished interior surface of the exterior wall and the centerline of the "Party Wall" (as hereinafter defined), extended horizontally to intersect with other parametrical boundaries of the Unit and extended vertically to the upper and lower boundaries of the Unit (the drywall is included in the Unit); and (iii) the lower boundaries shall include the upper unfinished surface of the floor slab (the portion of the Party Wall, located within the boundary of a Unit, shall be part of the Unit).

4.26. "Unit Owner" means "Unit Owner" as defined in the Act, and is the owner of a Unit.

## 5. DESCRIPTION OF IMPROVEMENTS

### 5.1. Description of Improvements

The Land and improvements being submitted to condominium ownership pursuant to this Declaration include four (4) one (1)-story office/warehouse buildings ("Buildings") which contain a total of fifty-four (54) Units, each of which is designated as described in Section 5.2.2, easement rights in certain property within the Condominium and certain road, landscaping, parking areas and storm water retention areas.

### 5.2. Survey, Plot Plan and Graphic Description of Improvements

5.2.1 Annexed hereto as Exhibit "B" and made a part hereof is the Survey, Plot Plan and Graphic Description of Improvements for the Condominium Property which includes a survey of the Land, graphic description of the improvements in which the Units and the Common Elements are located and plot plan thereof (all of which are herein collectively referred to as the ("Survey")). The Survey shows and identifies thereon the Common Elements and every Unit, their relative location and approximate dimensions. There is attached to the Survey and made a part of this Declaration a certificate of a surveyor prepared, signed and conforming with the requirements of Section 718.104(4)(e) of the Act.

5.2.2. Description and Identification of Units. The Units shall be identified by a three (3) digit number representing the Unit, the first number of which represents the building in which the Unit is located and the second and third of which represent the Unit's exact location with such building (e.g. 101, 102, 201, 202, etc.) and are so referred to herein and in the Exhibits hereto. No Unit bears the same designation as any other Unit in the Condominium.

### 5.3. Limited Common Elements

5.3.1. Staircases. Each area shown on the Survey as "Staircase" shall be a Limited Common Element reserved for the exclusive use of the Unit Owner(s) of the Unit(s) adjacent thereto. The Association shall be responsible for maintaining the Staircases.

5.3.2. Truck Well and Sump Pump. The area shown on the Survey as "Truck Well" and "Sump Pump" shall be a Limited Common Element reserved for the Unit Owner(s) of the Unit(s) serviced by such Truck Well and Sump Pump and the maintenance thereof shall be the responsibility of the Unit Owner(s) of the Unit(s) serviced by such Truck Well and Sump Pump.

## 6. UNDIVIDED SHARES IN COMMON ELEMENTS

### 6.1. Appurtenance

6.1.1. Ownership of the Common Elements and Membership in the Association. Each Unit shall have as an appurtenance thereto voting rights in the Association and an undivided share of ownership in the Common Elements based on the relative square footage of such Unit, as compared to all Units in the Condominium, stated as a percentage or fraction as set forth on Exhibit "E" attached hereto and incorporated by this reference.

6.1.2. Right to Use Common Elements. Each Unit shall have as an appurtenance thereto the right to use all of the Common Elements and Condominium Property of this Condominium in accordance with the Condominium Documents and subject to any limitations set forth in such Condominium Documents.

### 6.2. Share of Common Expenses and Common Surplus

The Common Expenses shall be shared and the Common Surplus shall be owned based on the relative square footage of each Unit, as set forth on Exhibit "E." For purposes of determining a pro rata share of Common Expenses and Common Surplus applicable to each Unit, the total square footage of all Units shall be used as the denominator and the square footage of the particular Unit as the numerator for the calculation of the Common Expenses and Common Surplus applicable to each Unit.

## 7. VOTING INTERESTS

### 7.1. Voting Interest

The Unit Owner or Unit Owners, collectively, of the fee simple title of record for each Unit shall have voting rights equal to the percentage or fraction of ownership in the Common Elements applicable to such Unit ("Voting Interest") in the Association as to matters on which a vote by Unit Owners is taken as provided under the Condominium Documents and the Act; provided, however, on such matters that a vote of Developer is required, Units owned by Developer shall also have three (3) times the Voting Interests held by the other Unit Owners plus one (1).

In the event there is more than one (1) Unit Owner with respect to a Unit as a result of the fee interest in such Unit being held by more than one (1) person or entity, such Unit Owners collectively shall only be entitled to the percentage share vote for each Unit owned in the manner determined by this Declaration.

### 7.2. Voting By Corporation or Multiple Unit Owners

The Voting Interest of the Unit Owners of any Unit owned by more than one (1) person, a corporation or other entity, or by one (1) person and a corporation and/or other entity, or by any combination of the aforesaid, shall be cast by the person ("Voting Member") named in a "Voting Certificate" signed by all of the Unit Owners of such Unit or, if appropriate, by properly designated officers, principals or partners of the respective legal entity which owns the Unit and filed with the Secretary of the Association. If a Voting Certificate is not on file, the Voting Interest associated with a Unit where the designation of a Voting Member is required shall not be considered in determining the requirement for a quorum or for any other purpose. In the event the persons, officers, directors or principles of a corporation or other entity owning a Unit are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to exercise their Voting Interest on that subject at that meeting.

### 7.3. Ownership by Husband and Wife

Notwithstanding the provisions of Section 7.2 above, whenever any Unit is owned solely by a husband and wife they may, but shall not be required to, designate a Voting Member. In the event a Voting Certificate designating a Voting Member is not filed by the husband and wife, the following provisions shall govern their right to vote:

(i) Where both husband and wife are present at a meeting, each shall be regarded as the agent and proxy for the other for purposes of casting the Voting Interest for each Unit owned solely by them. In the event they are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to exercise their Voting Interest on that subject at that meeting.

(ii) Where only one (1) spouse is present at a meeting, the spouse present may exercise the Voting Interest of the Unit without establishing the concurrence of the other spouse, absent any prior written notice to the contrary to the Association by the other spouse. In the event of prior written notice to the contrary to the Association by the other spouse, the vote of said Unit shall

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not be considered in determining the requirement for a quorum or for any other purpose unless such prior notice to the contrary has been withdrawn by a subsequent written notice executed by both husband and wife.

(iii) Where neither spouse is present, the person designated in a proxy signed by either spouse may exercise the Voting Interest of the Unit, absent any prior written notice to the contrary to the Association by the other spouse or the designation of a different proxy by the other spouse. In the event of prior written notice to the contrary to the Association or the designation of a different proxy by the other spouse, the vote of said Unit shall not be considered in determining the requirement for a quorum or for any other purpose.

#### 7.4. Voting by Proxy

Except as specifically otherwise provided in the Act, Unit Owners may not vote by general proxy, but may vote by limited proxy. Limited proxies and general proxies may be used to establish a quorum. Limited proxies and general proxies may also be used for voting on the matters outlined in Section 718.112(2)(b)(2) of the Act; however, no proxy, limited or general, shall be used in the election of members of the Board.

#### 7.5. Elections

The members of the Board shall be elected by written ballot or voting machine in accordance with the provisions of Section 718.112(2)(d)(3) of the Act.

#### 7.6. Eligibility of Directors

In accordance with Section 718.112(2)(d)(1) of the Act, except for Developer-appointed Directors, Directors must be Members except that if a Unit is owned by an entity and not an individual, such entity may appoint an officer/director on its behalf to be eligible to serve on the Board of Directors.

### 8. PLAN FOR DEVELOPMENT

Developer is the developer of Sunport Commerce Center Condominium, located in the City of Orlando within the County. The Condominium contains fifty-four (54) Units in four (4) one (1) story Buildings, as well as certain road, landscaping, parking areas and storm water retention areas.

### 9. ASSOCIATION

#### 9.1. Purpose of Association

The Association shall be the condominium association responsible for the operation of the Condominium. Each Unit Owner shall be a member of the Association as provided in the Condominium Documents. A copy of the Articles are attached hereto as Exhibit "C" and made a part hereof. A copy of the Bylaws are attached hereto as Exhibit "D" and made a part hereof.

## 9.2. Member Approval of Certain Association Actions

Notwithstanding anything contained herein to the contrary, the Association shall be required to obtain the approval of three-fourths (3/4) of the total Voting Interests of the Condominium at a duly called meeting of Unit Owners at which a quorum is present prior to the payment of or contracting for legal or other fees or expenses to persons or entities engaged by the Association in contemplation of a lawsuit or for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

- (i) the collection of Assessments;
- (ii) the collection of other charges which Unit Owners are obligated to pay pursuant to the Condominium Documents;
- (iii) the enforcement of the use and occupancy restrictions contained in the Condominium Documents;
- (iv) the enforcement of the restrictions on the sale and other transfer of Units, if any, contained in the Condominium Documents;
- (v) in an emergency where waiting to obtain the approval of the Unit Owners creates a substantial risk of irreparable injury to the Condominium Property or the Unit Owners, provided, however, in such event the aforesaid vote shall be taken with respect to the continuation of the action at the earliest practical date (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the requisite vote of three-fourths (3/4) of the Voting Interests); or
- (vi) filing a compulsory counterclaim.

## 9.3. Conveyance to Association

The Association is obligated to accept any and all conveyances to it by Developer of a fee simple title, easements or leases to all or portions of its property.

## 9.4. Conveyance by Association

The Association is empowered to delegate any of its functions or convey any of its property to any governmental unit as may be required or deemed necessary from time to time.

# 10. EASEMENTS

## 10.1. Perpetual Nonexclusive Easement to the Public Ways, the Condominium Property and Common Elements

The walks and other rights-of-way, if any, in the Condominium as shown on the Survey shall be, and the same are hereby declared to be, subject to a perpetual nonexclusive

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easement for ingress and egress and access to, over and across the same, to public ways, including dedicated streets, the Condominium Property and the Common Elements, which easement is hereby created in favor of all the Unit Owners in the Condominium now or hereafter existing for their use and for the use of their family members, guests, lessees or invitees for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended, including ingress and egress for the furnishing of services by fire protection agencies, police and other authorities of the law, United States mail carriers, representatives of public utilities, including, but not limited to, the Department of Environmental Protection, telephone, electricity, sewer, water, gas, drainage, irrigation, lighting, television transmission, cable television and communications systems transmission, reception and monitoring, security, garbage and waste removal and the like and for all purposes incidental thereto and other utilities or services authorized by Developer, its successors or assigns to service Condominium Property; and such other persons as Developer from time to time may designate for performing their authorized services. Developer hereby reserves unto itself, its successors, assigns, designees and nominees, and hereby grants to the Association, the right to grant easements, permits and licenses over the Common Elements and to impose upon the Common Elements henceforth and from time to time such easements and cross-easements for any of the foregoing purposes as it deems to be in the best interests of and necessary and proper for the Condominium. The Association shall have the right to establish any rules and regulations governing the use and enjoyment of the Common Elements and all easements over and upon same.

#### 10.2. Easements and Cross-Easements on Common Elements

The Common Elements of the Condominium shall be and the same are hereby duly declared to be subject to perpetual nonexclusive easements in favor of the Association, and such appropriate utility, telecommunication and other service companies or the providers of the services hereinafter set forth as may be from time to time designated by Developer to and from all portions of the Condominium Property for ingress and egress, and for the installation, maintenance, construction and repair of facilities, including, but not limited to, electric power, telephone, sewer, water, gas, drainage, irrigation, lighting, maintenance, landscaping, television transmission, cable television and communications systems transmission, reception and monitoring, security, pest control, garbage and waste removal and the like and for all purposes incidental thereto. Developer hereby reserves unto itself, its successors, assigns, designees and nominees, and hereby grants to the Association, the right to grant easements, permits and licenses over the Common Elements and to impose upon the Common Elements henceforth and from time to time such easements and cross-easements for any of the foregoing purposes as it deems to be in the best interests of and necessary and proper for the Condominium. Developer hereby reserves a blanket easement over, under, upon and through the Condominium and the Common Elements thereof for any purpose whatsoever.

#### 10.3. Developer's Right to Grant Additional Easements

Developer reserves the right for itself to grant such easements over, under, through, in and upon the Land in favor of itself, the Association, its members, designees, and appropriate utility and other service corporations or companies for ingress and egress for persons and vehicles to provide power, electric, sewer, water and other utility services and lighting facilities, irrigation, television transmission and distribution facilities, cable television facilities, telecommunications, monitoring, security, pest control, garbage and waste removal and the like and for all purposes

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incidental thereto. Either Developer or the Association shall have the right to execute, deliver and impose, from time to time, such easements and cross-easements for any of the foregoing purposes and at such location or locations as determined by either Developer or the Association.

#### 10.4. Units Owner's Grant of Utility Easements to Other Unit Owners in Same Building

Each Unit Owner of a Unit grants to all other Unit Owners owning a Unit in the same Building a perpetual utility easement for water, sewer, drainage, fire sprinkling, HVAC, power, cable television, telecommunications, telephone and other utility and service company lines and systems installed beneath or within the Units in such Building. In order to prevent damage to any such lines, no Unit Owner shall cut the slab in his/her/its Unit without the prior written approval of the Association. Any expense caused by the necessary access of authorized personnel of the utility or service company to service lines located beneath or within the Unit shall be shared equally by each of the Unit Owners affected; provided, however, that where the necessary access by authorized personnel of the utility or service company is required because of the intentional or negligent misuse of the utility company line or system or the service line by a Unit Owner, any expense arising therefrom shall be borne solely by such wrongdoer. Any expense caused by the necessary access of the authorized personnel of the utility or service company to service lines located within the Common Elements or Condominium Property shall be borne by the Association.

In addition to the foregoing, each Unit Owner grants to all other Unit Owners owning a Unit in the same Building a nonexclusive perpetual utility easement through, within and across the upper boundaries of his/her/its Unit for the purposes of installing utility lines within the uppermost four (4) feet of the applicable Unit. No Unit Owner shall install any supports for dropped ceilings, lighting fixtures and/or utility lines without first submitting plans and specifications for such installations to the Association for approval and obtaining the written consent of the Board therefor. The Board may require a structural engineer or architect to review certain of the proposed improvements, with such review to be at the Unit Owner's sole expense. The Association's approval of such plans and specifications for such installations does not and shall not be construed to constitute a determination by the Board, or the Association generally, of structural safety, approval or conformance with building or other codes or standards. Unit Owners will be held strictly liable for violations of these restrictions and for all damages resulting therefrom and the Association has the right to require immediate removal of violations.

#### 10.5 Party Walls

Each Unit Owner grants to all other Unit Owners owning a Unit in the same Building a perpetual non-exclusive utility easement for water, sewer, drainage, fire sprinkling, power, telephone and other utility and service company lines and systems installed within all division walls ("Party Walls") between two (2) Units. The Unit Owners of the Units adjacent to a Party Wall shall own such Party Wall as tenants in common. Unit Owners of adjacent Units which share a Party Wall shall have a cross easement of support in that portion of the Party Wall not located within the boundary of his/her/its Unit. Maintenance, repair and replacement of a Party Wall shall be borne equally by the respective Unit Owners of such Party Wall, except in the event a repair is to one side of such Party Wall only, the Unit Owner of the Unit on such side shall bear the entire cost.

In addition to the foregoing, when title to adjoining Units in the same Building (which do not then share a Party Wall) shall vest in two (2) or more different individuals or entities, who, thereupon, become adjoining Unit Owners, then the Unit Owners of such adjoining Units, acting together, must construct at their expense a Party Wall to completely separate said adjoining Units. The cost and expense of constructing such Party Wall shall be borne equally by the respective Unit Owners of such Party Wall. Notwithstanding the foregoing, a Party Wall may not be constructed by a Unit Owner without the prior written approval of the Board, which shall grant its approval upon receipt of a building permit issued by the applicable governmental body, if required for such construction. The Party Wall shall be constructed so that the parametrical plane of its center line shall be, to the maximum extent possible, coincident with the parametrical plane which serves as the common boundary between such Units, which adjoin one another.

#### 10.6. Easement for Encroachments

All the Condominium Property shall be subject to easements for encroachments, which now or hereafter exist, caused by settlement or movement of any improvements upon such areas or improvements contiguous thereto or caused by minor inaccuracies in the building or rebuilding of such improvements. The foregoing easement shall include any encroachment of a Party Wall beyond the common boundaries of adjoining Units or when Units adjoin Common Elements as a result of minor inaccuracies in survey, construction, reconstruction, or due to settlement or movement or otherwise. The encroaching improvements shall remain undisturbed for as long as the encroachment exists. This easement for encroachment shall also include an easement for the maintenance and use of the encroaching improvement.

#### 10.7. Cross Easement for Support and Use

Developer hereby grants cross easements of support and use over, upon, across, under, through and into the Common Elements in favor of the Unit Owners or their designees for the continued use, benefit and enjoyment and continued support, service, maintenance, repair and design of all Units and Common Elements within any portion of the Condominium Property.

#### 10.8. Reservation for Periodic Inspections

Developer and the Association shall have the right, but not the obligation, to conduct inspections of and tests on, from time to time, all or any parts of the Common Elements and improvements thereon in order to ascertain the physical condition of the Common Elements and improvements thereon and to determine whether maintenance, repair or replacement of the Common Elements or improvements thereon is indicated. If Developer or the Association conducts any such tests or inspections, it shall pay all costs thereof, restore the affected portion of the Condominium Property to its condition immediately prior to the inspections and tests, and shall indemnify the Unit Owner(s) of any affected Unit(s) from any damages resulting therefrom. Developer hereby reserves for itself, and grants to the Association, the right of entry on, over, under, across and through the Condominium Property as may be reasonably necessary for the foregoing purposes.



#### 10.9. Cross Easements for Drainage

Nonexclusive cross easements for drainage pursuant to the storm water management system created by Developer as maintained, improved, repaired and/or replaced by the Association in compliance with applicable governmental regulations is hereby granted to each owner of any portion of the Condominium Property and to all applicable governmental authorities

#### 10.10. Billboard Easement

Developer hereby creates, grants and reserves, and the Condominium Property shall be subject to, a perpetual exclusive easement in favor of Developer upon the Condominium Property to be used for the placement, installation and maintenance of a billboard structure(s) and related appurtenances, utilities and displays (collectively, the "Billboard"). This grant of easement includes the right to access the Billboard through such portions of the Condominium Property as are reasonably necessary for such access, the right to park service vehicles upon the parking areas of the Condominium Property while installing, servicing or replacing the equipment located or to be located on the Billboard or for the Billboard. The Billboard shall have its own separate meter for electric service and Developer shall be responsible for the cost of any such electrical service. The rights set forth in this section are assignable, in whole or in part, by Developer without the consent of the Association or any Unit Owner. Developer shall have the right to all income derived from the Billboard.

Since the Billboard is situated upon a portion of the Condominium Property, Developer, by its use of the Billboard, thereby agrees to indemnify and hold the Association harmless from and against any damage caused to the Condominium Property by Developer, its agents, employees, contractors, licensees, invitees and assigns. Since the Common Elements constitute a portion of the Condominium Property, the rights set forth in this paragraph are subject to the right of the Association to cause its agents, employees, contractors, licensees and invitees to go upon the Common Elements to fulfill its responsibilities to maintain the Common Elements; provided, however, the Association shall not damage or interfere with the Billboard or any equipment related thereto.

Each Unit Owner, by his/her acceptance of title to his/her/its Unit(s), and the Association, acknowledges and agrees that the placement and installation of the Billboard shall not be deemed or considered to be a material alteration to the Condominium Property and, therefore, the Unit Owners and the Association shall have no right to vote upon or approve any such placement and installation. Each Unit Owner further acknowledges that no Unit Owner, nor the Association, shall have the right to object to any uses Developer may make of the Billboard and all Unit Owners and the Association specifically authorize Developer to seek and obtain any and all governmental approvals necessary for such uses, including the replacement of the Billboard.

Notwithstanding anything to the contrary contained in this Declaration, the provisions of this Section 10.10 may not be amended without the prior written consent of Developer to such an amendment and no other provision of this Declaration may be amended in such a way as would amend, modify, limit or restrict this grant of easement without Developer's consent. The easement herein granted shall be perpetual and shall run with the Condominium Property.

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#### 10.11. Driveway Easement

The Condominium Property is subject to and benefited by a non-exclusive easement ("Driveway Easement") as more particular set forth in that certain Driveway Easement Agreement recorded in Official Records Book 5872, Page 4493 of the Public Records of Orange County, Florida for pedestrian and vehicular ingress and egress and for the development, construction, maintenance, repair and replacement of driveway improvements including paving, curbing, storm water drainage, underground utility lines, landscaping, landscape irrigation, directional signage and other driveway improvements pursuant to the Driveway Easement. The portion of the costs associated with maintaining, repairing and replacing the improvements located on the Driveway Easement and which are allocated to the Condominium Property shall be a Common Expense.

#### 10.12. Air Conditioning Equipment Easement

The Common Element roof of the Building shall be subject to a perpetual non-exclusive easement in favor of each Unit Owner for the placement and maintenance of air conditioning equipment to serve the Unit(s) owned by a Unit Owner. The placement of the air conditioning equipment shall be subject to the prior written approval of the Association.

#### 10.13. Sign Easement

Developer hereby creates, grants and reserves, and the Condominium Property shall be subject to, a perpetual exclusive easement in favor of Developer ("Grantee") upon every outside face of each Building and any monument sign on the Condominium Property (collectively, the "Sign Easement Areas") to be used by Grantee for any lawful purpose, including but not limited to, the placement, installation and maintenance of signage and similar structures (even if unrelated to the Condominium Property). This grant of easement includes the right to access the Sign Easement Areas through such portions of the Condominium Property as are reasonably necessary for such access, the right to park service vehicles upon the parking areas of the Condominium Property while installing, servicing or replacing the equipment located or to be located in the Sign Easement Areas. Grantee shall have the right to use Common Element electrical service for the equipment placed within and/or affixed to the Sign Easement Areas. The Association shall be responsible for the cost of any such electrical service. The rights set forth in this Article 10.13 are assignable, in whole or in part, by Grantee without the consent of the Association or any Owner. Grantee shall have the right to all income derived from anything constructed within the Sign Easement Areas.

Since the Sign Easement Areas constitute a portion of the Condominium Property, Grantee, by its use of the Sign Easement Areas, thereby agrees that Grantee indemnifies and holds the Association harmless from and against any damage caused to the Sign Easement Areas or other portions of the Condominium Property by Grantee, its agents, employees, contractors, licensees, invitees and assigns. Since the Sign Easement Areas constitute a portion of the Condominium Property, the rights set forth in this Article 10.13 are subject to the right of the Association to cause its agents, employees, contractors, licensees and invitees to go upon the Sign Easement Areas to fulfill its responsibilities to maintain the Sign Easement Areas; provided, however, the Association

shall not damage or interfere with any equipment placed within the Sign Easement Areas and affixed thereto by Grantee.

Each Unit Owner, by his/her acceptance of title to his/her Unit(s), and the Association, acknowledges and agrees that the placement and installation of any signs within the Sign Easement Areas shall not be deemed or considered to be a material alteration to the Condominium Property and, therefore, the Unit Owners and the Association shall have no right to vote upon or approve any such placement and installation. Each Unit Owner further acknowledges that no Unit Owner, nor the Association, shall have the right to object to any uses Grantee may make of the Sign Easement Areas and all Unit Owners and the Association specifically authorize Grantee to seek and obtain any and all governmental approvals necessary for such uses.

Notwithstanding anything to the contrary contained in this Declaration, the provisions of this Article 10.13 may not be amended without the prior written consent of Grantee to such an amendment and no other provision of this Declaration may be amended in such a way as would amend, modify, limit or restrict this grant of easement without Grantee's consent. The easement herein granted shall be perpetual and shall run with the Condominium Property.

#### 10.14. Easement to Developer

Developer hereby creates, grants and reserves, and the Condominium shall be subject to, a perpetual easement in favor of Developer ("Grantee") upon that portion of the Condominium Property constituting the roof of each Building ("Easement Area"). The Easement Area may be used by Grantee for any lawful purpose, including, but not limited to, the placement, installation and maintenance of antennae, aerials, satellite dishes, and similar and related transmission and reception devices. This grant of easement includes the right to access the Easement Area through such portions of the Common Elements of the Condominium as are reasonably necessary for such access, the right to park service vehicles upon the designated portions of the parking areas of the Condominium Property while installing, servicing or replacing the equipment located or to be located in the Easement Area, and the right to obtain electrical service to the equipment placed within and/or affixed to the Easement Area, provided such electrical service is separately metered. Grantee shall be responsible for the cost of any such electrical service. This easement is assignable, in whole or in part, by Grantee without the consent of Developer or the Association.

Since the Easement Area constitutes a portion of the Common Elements of the Condominium, Grantee, by its use of the Easement Area, thereby indicates that Grantee indemnifies and holds the Association harmless from and against any damage caused to the Easement Area by Grantee, its agents, employees, contractors, licensees, invitees and assigns. Since the Easement Area constitutes a portion of the Common Elements of the Condominium, this easement is subject to the right of the Association to cause its agents, employees, contractors, licensees and invitees to go upon the Easement Area to fulfill its responsibilities to maintain the Easement Area; provided, however, the Association shall not damage or interfere with any equipment placed within the Easement Area and affixed thereto by Grantee.

Each Unit Owner, by his/her acceptance of title to his/her/its Unit, and the Association acknowledge and agree that the placement and installation of any antennae, aerials, satellite dishes, and similar and related transmission and reception devices within the Easement Area shall not be deemed or considered to be a material alteration to the Common Elements of the Condominium and, therefore, the Unit Owners and the Association shall have no right to vote upon or approve any such placement and installation.

Notwithstanding anything to the contrary contained in this Declaration, the provisions of this Article 10.14 may not be amended without the prior written consent of Grantee to such an amendment and no other provision of this Declaration may be amended in such a way as would amend, modify, limit or restrict this grant of easement without Grantee's consent. The easement herein granted shall be perpetual and shall run with the Condominium Property.

This Article 10.14 may not be suspended, superseded or modified in any manner by any amendment to this Declaration, unless such amendment is consented to in writing by Developer. The right of use and transaction of business as set forth in this Article 10.14 may be assigned in writing by Developer in whole or in part.

## 11. LIABILITY INSURANCE PROVISIONS

### 11.1. Public Liability Insurance

The Board shall obtain liability insurance in the form generally known as Public Liability and/or Owners, Landlord and Tenant Policies, or alternatively, in the event Developer so elects, the Association shall be covered under Developer's insurance, in such amounts as it may determine from time to time for the purpose of providing liability insurance coverage for all property and improvements in the Condominium excluding the Units; provided, however, that such policy or policies shall not have limits of less than One Million Dollars (\$1,000,000.00) covering all claims for personal injury and One Hundred Thousand Dollars (\$100,000.00) for property damage arising out of a single occurrence and such property damage insurance as required to adequately protect the improvements on the Condominium Property. The Board shall collect and enforce the payment of a share of the premium for such insurance from each Unit Owner as a part of the Annual Assessment. Said insurance shall include, but not be limited to, legal liability for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of any property or improvements within the Condominium, legal liability arising out of law suits related to employment contracts of the Association (if available at acceptable rates), water damage, liability for hazards related to usage and liability for property of others (if available at acceptable rates), hired automobile, non-owned automobile and off-premises employee coverage (if available at acceptable rates) and such other risks as are customarily covered with respect to developments similar to the Condominium in construction, location and use. All such policies shall name the Association (and Developer so long as Developer shall own any of the Condominium Property, as their respective interests may appear) as the insured(s) under such policy or policies. The original or a true copy of each policy shall be held in the office of the Association. The insurance purchased shall contain a "severability of interest endorsement," or equivalent coverage, which would preclude the insurer from denying the claim of a Unit Owner because of the negligent acts of either the Association, Developer or any other Unit Owner or deny the claim of either Developer or the Association because

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of the negligent acts of the other or the negligent acts of a Unit Owner. All liability insurance shall contain cross liability endorsements to cover liabilities of the Unit Owners as a group to each other Unit Owner. Each Unit Owner shall be responsible for the purchasing of liability insurance for accidents occurring in his/her/its own Unit(s) and, if the Unit Owner so determines, for supplementing any insurance purchased by the Association. Notwithstanding the foregoing, in the event the Board determines that the cost of public liability insurance is economically unwarranted, the Board may determine to either reduce the amount of such insurance, increase the deductible amount or discontinue coverage.

#### 11.2. Fidelity Insurance

Adequate fidelity coverage to protect against dishonest acts of the officers and employees of the Association and the Directors and all others who handle and are responsible for handling funds of the Association (whether or not they receive compensation), shall be maintained. Such coverage shall be in the form of fidelity bonds which meet the following requirements: (i) such bonds shall name the Association as an obligee and premiums therefor shall be paid by the Association; (ii) such bonds shall be written in an amount equal to the amount of the annual operating budget at any one time plus reserve funds, but in no event less than the amount required by the Act for each such person; and (iii) such bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression, if such waiver is available. Notwithstanding the foregoing, in the event the Association determines that the cost of such insurance is economically unwarranted or is not obtainable, the Association may determine to either reduce the amount of such insurance, increase the deductible amount or discontinue coverage provided coverage is no less than required by the Act.

#### 11.3. Cancellation Provision

All insurance policies or fidelity bonds purchased pursuant to this Article 11 shall provide that they may not be canceled without at least ten (10) days prior written notice to the Association and to Institutional Mortgagees.

### 12. PROVISIONS RELATING TO CASUALTY INSURANCE AND DESTRUCTION OF IMPROVEMENTS

#### 12.1. Hazard Insurance

Each Unit Owner shall be responsible for the purchase of casualty insurance for his/her/its personal property including, but not limited to: all concrete floor slabs, all floor coverings, wall, ceiling coverings, electrical fixtures, appliances, air conditioner or heating equipment, water heaters, water filters, built-in cabinets and countertops, doors, windows, window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of a Unit and all air conditioning compressors that service only the Unit(s), whether or not located within the Unit boundaries. The Association shall obtain casualty insurance with such coverage and in such amounts as it may determine from time to time for the purpose of providing casualty insurance coverage for all insurable property and improvements within the Condominium, including Fire and Extended

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Coverage, Vandalism and Malicious Mischief Insurance for all portions of the Condominium Property located outside of the Units and all portions of the Condominium for which this Declaration otherwise requires coverage by the Association, all of which insurance shall insure all of the insurable improvements on or within the Condominium, including personal property owned by the Association, in and for the interest of the Association, all Unit Owners and their mortgagees, as their interests may appear, with a company (or companies) acceptable to the standards set by the Board. The Association shall purchase insurance for the Buildings in an amount equal to one hundred percent (100%) of the "Replacement Value" thereof. The term "Replacement Value" shall mean one hundred percent (100%) of the current replacement costs, exclusive of land, foundation, excavation, items of personal property and other items normally excluded from coverage as determined annually by the Board. The Board may determine the kind of coverage and proper and adequate amount of insurance. The casualty insurance shall contain an "agreed amount endorsement" or its equivalent, "inflation guard endorsement," and, if determined necessary, an "increased cost of construction endorsement" or "continuant liability from operation of building laws endorsement" or a "demolition endorsement" or the equivalent. The casualty insurance shall insure the Buildings from loss or damage caused by or resulting from at least the following: fire and other hazards covered by the standard extended coverage endorsement and by sprinkler leakage, windstorm, vandalism, malicious mischief, debris removal and demolition, and such other risks as shall customarily be covered with respect to projects or developments similar to the Buildings in construction, location and use.

#### 12.2. Flood Insurance

If determined appropriate by the Board or if required by any Institutional Mortgagee, the Association shall obtain a master or blanket policy of flood insurance covering all property and improvements in the Condominium, if available and at a reasonable premium, under the National Flood Insurance Program or any other government regulated insurance carrier authorized to conduct business in the State of Florida or a commercial underwriter, which flood insurance shall be in the form of a standard policy issued by a member of the National Flood Insurers Association or such commercial underwriter, and the amount of the coverage of such insurance shall be the lesser of the maximum amount of flood insurance available under such program or one hundred percent (100%) of the current replacement cost of all Buildings and other insurable property located in the flood hazard area.

#### 12.3. Form of Policy and Insurance Trustee

The Association may, to the extent possible and not inconsistent with the foregoing, obtain one (1) policy to insure all of the insurable improvements within the Condominium operated by the Association. The premiums for such coverage and other expenses in connection with said insurance shall be paid by the Association and assessed as part of the Annual Assessment. The company (or companies) with which the Association shall place its insurance coverage, as provided in this Declaration, must be a good and responsible company (or companies) authorized to do business in the State of Florida. In addition, the insurance agent must be located in the State of Florida. The Association shall have the right to designate a trustee ("Insurance Trustee") and upon the request of the Institutional Mortgagee holding the highest dollar indebtedness encumbering Units within the Condominium, as applicable, ("Lead Mortgagee") shall designate an Insurance Trustee. Thereafter the Association from time to time shall have the right to change the Insurance Trustee to

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such other trust company authorized to conduct business in the State of Florida or to such other person, firm or corporation as Insurance Trustee as shall be acceptable to the Board and the Lead Mortgagee. The Lead Mortgagee shall have the right, for so long as it holds the highest dollar indebtedness encumbering Units within the Condominium, as applicable, to approve: (i) the form of the insurance policies; (ii) the amounts thereof; (iii) the company or companies which shall be the insurers under such policies; (iv) the insurance agent or agents; and (v) the designation of the Insurance Trustee if it deems the use of an Insurance Trustee other than the Board to be necessary, which approval(s) shall not be unreasonably withheld or delayed; provided, however, for so long as Developer owns any Unit(s), Developer shall have the right, but not the obligation, to require the Association to designate an Insurance Trustee other than the Board. Notwithstanding anything in this Declaration to the contrary, the Board may act as the Insurance Trustee hereunder unless otherwise required by the Lead Mortgagee or Developer. The Lead Mortgagee shall inform the Association by written notification if it requires the use of an Insurance Trustee other than the Board. If the use of an Insurance Trustee other than the Board is requested in writing, then the Lead Mortgagee shall be deemed to have approved the Insurance Trustee unless the Lead Mortgagee's written disapproval is received by the Association within thirty (30) days after notice from the Association of the identity of the proposed Insurance Trustee. If no Insurance Trustee is required, the Board shall receive, hold and expend insurance proceeds in the manner hereinafter provided as if it were the Insurance Trustee.

#### 12.4. Required Policy Provisions

All such aforesaid policies shall provide that they may not be canceled without at least ten (10) days' prior written notice to the Association and Listed Mortgagees and shall be deposited with the Insurance Trustee upon its written acknowledgment that the policies and any proceeds thereof will be held in accordance with the terms hereof. Said policies shall provide that all insurance proceeds payable on account of loss or damage shall be payable to the Insurance Trustee. In the event of a casualty loss, the Insurance Trustee may deduct from the insurance proceeds collected a reasonable fee for its service as Insurance Trustee. The Association is hereby irrevocably appointed agent for each Unit Owner to adjust all claims arising under insurance policies purchased by the Association. The Insurance Trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of the policies or for the failure to collect any insurance proceeds. The Association may determine to act as Insurance Trustee, in which event references herein to Insurance Trustee shall refer to the Board.

#### 12.5. Restrictions of Mortgagees

No mortgagee shall have the right to determine that the Condominium shall not be rebuilt, nor shall any mortgagee have the right to apply insurance proceeds to repayment of its loan unless such proceeds are distributed to Unit Owners and/or their respective mortgagees.

#### 12.6. Distribution of Insurance Proceeds and Losses

The duty of the Insurance Trustee shall be to receive any and all proceeds from the insurance policies held by it and to hold such proceeds in trust for the Association, Unit Owners and mortgagees under the following terms:

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12.6.1. Loss to Unit Alone. In the event a loss insured under the policies held by the Insurance Trustee occurs to any improvements within any of the Units alone, without any loss to any other improvements within the Condominium, the Insurance Trustee shall immediately pay all proceeds received because of such loss directly to the Unit Owners of the Units damaged and their mortgagees, if any, as their interests may appear, and it shall be the duty of these Unit Owners to use such proceeds to effect necessary repair to the Units. The Insurance Trustee, where other than the Association, may rely upon the written statement of the Association as to whether or not there has been a loss to the Unit alone, the Common Elements or any combination thereof.

12.6.2. Loss to Units and Common Elements. In the event that a loss occurs as a result of damages to the improvements within the Common Elements and/or Units and Common Elements that are contiguous, then the Insurance Trustee shall hold, in trust, all insurance proceeds received with respect to such damage, together with any and all other funds paid as hereinafter provided, and shall distribute the same as follows:

(a) The Board shall obtain or cause to be obtained reliable and detailed estimates and/or bids for the cost of rebuilding and reconstructing the damage and for the purpose of determining whether insurance proceeds are sufficient to pay for the same.

(b) In the event the insurance proceeds are sufficient to rebuild and reconstruct all the damaged improvements, then the damaged improvements shall be completely repaired and restored. In this event, all payees shall deliver paid bills and waivers of mechanics' liens to the Insurance Trustee and execute affidavits required by law, by the Association, by any Institutional Mortgagee named on a mortgage endorsement or by the Insurance Trustee, and shall deliver the same to the Insurance Trustee. Further, the Association shall negotiate and obtain a contractor willing to do the work on a fixed price basis or some other reasonable terms under the circumstances, said contractor shall post a performance and payment bond, and the Insurance Trustee shall disburse the insurance proceeds and other funds held in trust in accordance with the progress payments contained in the construction contract between the Association and the contractor. Subject to the foregoing, the Board shall have the right and obligation to negotiate and contract for the repair and restoration of the premises.

(c) In the event the insurance proceeds are insufficient to repair and replace all of the damaged improvements within the Common Elements and Units contiguous to such damaged Common Elements, the Board shall hold a special meeting to determine a Special Assessment against all of the Unit Owners to obtain any necessary funds to repair and to restore such damaged improvements. Upon the determination by the Board of the amount of such Special Assessment, the Board shall immediately levy such Special Assessment against each Unit setting forth the date or dates of payment of the same, and any and all funds received from the Unit Owners pursuant to such Special Assessment shall be delivered to the Insurance Trustee and disbursed as provided in Section 12.6.2(b) immediately preceding.

12.6.3. Distribution of Excess Funds. In the event that after the completion of and payment for the repair and reconstruction of the damage to the damaged property and after the payment of the Insurance Trustee's fee with respect thereto any excess insurance proceeds remain in

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the hands of the Insurance Trustee, then such excess shall be disbursed in the manner of the Insurance Proceeds Distribution. However, in the event such repairs and replacements were paid for by any Special Assessment as well as insurance proceeds, then it shall be presumed that the monies disbursed in payment of any repair, replacement and reconstruction were first disbursed from insurance proceeds and any remaining funds held by the Insurance Trustee shall be distributed to the Unit Owners in proportion to their contributions by way of Special Assessment.

12.6.4. Institutional Mortgagees. In the event the Insurance Trustee has on hand, within ninety (90) days after any casualty or loss, insurance proceeds and, if necessary, funds from any Special Assessment sufficient to pay fully any required restoration and repair with respect to such casualty or loss, then no mortgagee shall have the right to require the application of any insurance proceeds or Special Assessment to the payment of its loan. Any provision contained herein for the benefit of any mortgagee may be enforced by a mortgagee.

12.6.5. Repair of Damaged Property. Any repair, rebuilding or reconstruction of damaged property shall be substantially in accordance with the architectural plans and specifications for the Condominium, as: (i) originally constructed; (ii) reconstructed; or (iii) depicted in new plans and specifications; provided, however, any material or substantial change in new plans and specifications from the plans and specifications of the Condominium as previously constructed shall require approval by the Lead Mortgagee.

12.6.6. Determination of Damage. The Board shall determine, in its sole and absolute discretion, whether damage or loss has occurred to improvements within the Units alone, Common Elements alone or to improvements within any combination thereof.

12.6.7. Insurance Amounts. Notwithstanding anything in this Article 12 to the contrary, the amounts set forth for the purchase of insurance in this Article 12 are the minimum amounts to be purchased. Therefore, Unit Owners or the Association, as the case may be, may purchase insurance in excess of the amounts set forth herein. The amounts set forth do not constitute a representation or warranty of any kind by Developer or the Association as to the proper amount or kinds of insurance required.

12.6.8. Miscellaneous Policy Requirements. Policies insuring the property within the Condominium purchased pursuant to the requirements of this Article 12 shall provide that any insurance trust agreement shall be recognized; the right of subrogation against Unit Owners will be waived if acquisition of a policy with such provision is available at commercially reasonable rates; the insurance will not be prejudiced by any acts or omission of individual Unit Owners who are not under the control of the Association; and the policy will be primary, even if a Unit Owner has other insurance that covers the same loss.

12.6.9. Master Form of Insurance. Nothing contained herein shall prohibit the Association from obtaining a "Master" or "Blanket" form of insurance to meet the requirements of this Article 12, provided that the coverages required hereunder are fulfilled.

### 13. PROVISIONS RELATING TO CONDEMNATION OR EMINENT DOMAIN PROCEEDINGS

#### 13.1. Proceedings

The Association shall represent the Unit Owners in the condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Elements or any parts thereof by the condemning authority. Each Unit Owner shall represent his/her/its interest in any condemnation proceeding or in negotiations, settlements and agreements with the condemning authority for acquisition of such Unit Owner's Unit by the condemning authority.

#### 13.2. Deposit of Awards With Insurance Trustee

The taking of any portion of the Common Elements or a Unit or any portion thereof by condemnation shall be deemed to be a casualty, and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty and shall be deposited with the Insurance Trustee. Although the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Insurance Trustee; and in the event of failure to do so, in the discretion of the Board, a special charge shall be made against a defaulting Unit Owner in the amount of his/her/its award, or the amount of that award shall be set off against the sums hereafter made payable to that Unit Owner.

#### 13.3. Disbursement of Funds

If the Condominium is terminated in accordance with the provisions of this Declaration after condemnation, the proceeds of the awards and Special Assessments, if any, shall be deemed to be Condominium Property and shall be divided into the shares described in this Declaration and distributed to the Unit Owners and mortgagees as their interests may appear. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced, the owners of the condemned Units will be made whole and the Condominium Property damaged by the taking will be made usable in the manner provided below.

#### 13.4. Unit Reduced But Tenantable

If the taking reduces the size of a Unit ("Affected Unit") and the remaining portion of the Affected Unit can be made tenantable, the award for the taking of a portion of the Affected Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Condominium:

13.4.1. Affected Unit Made Tenantable. The remaining portion of the Affected Unit shall be made tenantable provided such Affected Unit is the minimum size required of all Units as provided in this Declaration. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be collected as a special charge against the Affected Unit.

13.4.2. Excess Distributed to Unit Owner and Institutional Mortgagee. The balance of the award, if any, shall be distributed to the Unit Owner of the Affected Unit and to each Institutional Mortgagee of the Affected Unit, the remittance being made payable to the Unit Owner and Institutional Mortgagees as their interests may appear.

13.4.3. Reduction in Percentage of Common Elements. If the square footage of the Affected Unit is reduced by more than ten percent (10%) by the taking, the number representing the share in the ownership of the Common Elements appurtenant to the Affected Unit shall be reduced ("Reduction in Percentage of Common Elements") in the proportion by which the square footage of the Affected Unit is reduced by the taking, and then the shares of all Units in the ownership of the Common Elements shall be restated with the Reduction in Percentage of Common Elements being allocated to all the Units in proportion to their share of ownership in the Common Elements.

### 13.5. Affected Unit Made Untenantable

If the taking is of the entire Affected Unit or the taking so reduces the size of an Affected Unit that it cannot be made tenantable because it is no longer at least the minimum size required of all Units as provided in this Declaration, the award for the taking of the Affected Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Condominium:

13.5.1. Payment to Unit Owner and Institutional Mortgagee. The market value of the Affected Unit immediately prior to the taking shall be paid to the Unit Owner thereof and to each Institutional Mortgagee thereof as their interests may appear.

13.5.2. Remaining Portion of Affected Unit. The remaining portion of the Affected Unit, if any, shall be released by the Institutional Mortgagee and conveyed by the Unit Owner to the Association. Such remaining portion of the Affected Unit shall become a part of the Common Elements and shall be placed in a condition approved by the Board and the Condominium Documents shall be amended to reflect the addition of such Common Elements; provided that if the cost of the work shall exceed the balance of the fund from the award for the taking after the payment set forth in Section 13.4.1 above, the work shall be approved in the manner required for further improvement of the Common Elements.

13.5.3. Adjustment in Shares of Common Elements. The shares in the Common Elements appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the ownership of the Common Elements from the Affected Units among the reduced number of Units. The shares of the continuing Units in the ownership of the Common Elements shall be restated with the percentage of ownership in the Common Elements of the Affected Units being allocated to all the continuing Units in proportion to their relative share of ownership in the Common Elements.

13.5.4. Insufficient Award. If the amount of the award for the taking is not sufficient to pay the market value of the Affected Unit to the Unit Owner and to condition the remaining portion of the Affected Unit for use as a part of the Common Elements, the additional funds required for those purposes shall be raised by Special Assessments against all of the Unit Owners who will

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continue as Unit Owners after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the shares of those Unit Owners in the Common Elements after the changes effected by the taking.

13.5.5. Determination of Market Value of Affected Unit. If the market value of an Affected Unit prior to the taking cannot be determined by agreement between the Unit Owner, the Institutional Mortgagees of the Affected Unit and the Association within thirty (30) days after notice by either party, the value 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 Affected Unit; and the determination of the arbitrators shall be conclusive upon the parties and judgment upon the same may be entered in any court having jurisdiction thereof. The cost of arbitration proceedings shall be assessed against all Units in proportion to the shares of the Units in the Common Elements as they exist prior to the changes effected by the taking.

#### 13.6. Taking of Common Elements

Awards for taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in the manner approved by the Board; provided, that if the cost of the work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner required for further improvement of the Common Elements. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustment of these shares on account of the condemnation and to Institutional Mortgagees as their interests may appear.

#### 13.7. Amendment of Declaration

The changes in Units, in the Common Elements and in the ownership of the Common Elements that are affected by the condemnation shall be evidenced by an amendment to this Declaration that need be approved only by a majority of the Board. Such amendment shall be evidenced by a certificate executed by the Association in recordable form in accordance with the Act. The amendment shall become effective upon the recording of such amendment amongst the Public Records of the County.

### 14. PROVISION FOR APPORTIONMENT OF TAX OR SPECIAL ASSESSMENT IF LEVIED AND ASSESSED AGAINST THE CONDOMINIUM AS A WHOLE

#### 14.1. New Total Tax

In the event that any taxing authority having jurisdiction over the Condominium shall levy or assess any tax or special assessment against the Condominium as a whole as opposed to levying and assessing such tax or special assessment against each Unit and its appurtenant undivided interest in Common Elements, as now provided by law ("New Total Tax"), then such New Total Tax shall be paid as a Common Expense by the Association, and any taxes or special assessments which are to be so levied shall be included wherever possible in the estimated annual "Budget" (as hereinafter defined) of the Association or shall be separately levied and collected as a Special

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Assessment by the Association against all of the Unit Owners of all Units. Each Unit Owner shall be assessed by and shall pay to the Association a percentage of the New Total Tax equal to that Unit Owner's percentage interest in the Common Elements. In the event that any New Total Tax shall be levied, then the assessment by the Association shall separately specify and identify the portion of such assessment attributable to such New Total Tax and such portion shall be and constitute a lien prior to all mortgages and encumbrances upon any Unit and its appurtenant percentage interest in Common Elements, regardless of the date of the attachment and/or recording of such mortgage or encumbrances, to the same extent as though such portion of New Total Tax had been separately levied by the taxing authority upon each Unit and its appurtenant percentage interest in Common Elements.

#### 14.2. Personal Property Taxes

All personal property taxes levied or assessed against personal property owned by the Association and all federal and state income taxes levied and assessed against the Association shall be paid by the Association and shall be included as a Common Expense in the Budget of the Association.

### 15. OCCUPANCY AND USE RESTRICTIONS

In order to preserve the values and amenities of the Condominium, the following provisions shall be applicable to the Condominium Property:

15.1. All Unit Owners are prohibited from entering into gas, oil, minerals, metals, or other petroleum products leases on the Condominium Property. This covenant and provision shall run with the land and restrict its use for this purpose. Each Unit Owner shall not permit any nuisance to exist within his/her/its Unit(s) so as to be detrimental to any other Unit or to the other Unit Owners.

15.2. Unit Owners shall obtain any and all required governmental approvals as well as approval of the Association for the construction of improvements to or within his/her/its Unit.

15.3. The Unit(s) may be used in any trade, business, profession or for any other commercial use permitted by the governmental ordinances having jurisdiction over same, subject to this Declaration. An entire Unit or portion of a Unit may be leased as long as the leased portion is not less than one thousand five hundred (1500) square feet. An Owner may lease the Unit subject to all of the terms and provisions contained in this Declaration. Nothing contained herein shall prohibit Developer from carrying on any and all types of construction activity necessary to build-out the Units, including the right for Developer to carry on any and all types of activity necessary to operate a sales/lease model and office until all of the Units and other units owned by Developer in the immediate and surrounding area have been sold. The immediate and surrounding area shall not be limited to the Condominium Property described in Exhibit "A" of this Declaration.

15.4. The exterior walls, roof, windows, doors, awning(s) if any, and mansard siding if any, shall not be painted, stained, decorated, pressure cleaned, penetrated or modified by any Unit Owner in any manner, without the prior written consent of the Association, which consent may be withheld within the sole discretion of the Association.

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15.5. No bars, taverns, adult book stores or any other business in which principal revenues are derived from the sale of alcoholic beverages shall be permitted on any portion of the Condominium Property.

15.6. No schools, call centers, day labor businesses, blood banks or similar businesses shall be permitted on any portion of the Condominium Property. For purposes of clarification, a "call center" shall mean all or any portion of an organization that handles inbound and/or outbound communications with any customers.

15.7. All draperies, curtains, shades or other window treatments or door coverings installed within a Unit which are visible from the exterior of the Unit or other portions of the Condominium Property shall have a white or beige backing unless otherwise approved in writing by the Association.

15.8. A Unit Owner shall not permit or suffer anything to be done or kept in his/her/its Unit which will: (i) increase the insurance rates on his/her/its Unit or the Common Elements; (ii) obstruct or interfere with the rights of other Unit Owners or the Association; or (iii) annoy other Unit Owners by unreasonable noises or otherwise. A Unit Owner shall not commit or permit any nuisance, immoral or illegal act in his/her/its Unit or on the Common Elements.

15.9. A Unit Owner shall have the right to display signs and advertisements on the Common Elements and upon his/her/its Unit, subject to the sign specifications listed on Exhibit "F" attached hereto and made a part hereof. No sign shall be placed by a Unit Owner on the Common Elements without the approval of the Association. Developer specifically reserves the right to place and maintain identifying or informational signs on the Condominium Property as well as any signs in connection with its sales activities as long as Developer is selling Units in the ordinary course of business.

15.10. A Unit Owner and/or lessee shall not board, raise or breed or otherwise keep any pet or other animal, livestock or poultry upon any portion of the Condominium Property. Trained seeing-eye dogs will be permitted for those persons holding certificates of blindness and necessity. Other animals will be permitted if such animals serve as physical aides to handicapped persons and such animals have been trained or provided by an agency or service qualified to provide such animals. Trained seeing-eye dogs and other guide or assistance animals shall be collectively referred to herein as "Service Animals". The Service Animals will be kept in direct custody of the assisted person or the qualified person training the animal at all times when on the Condominium Property and the animal shall wear and be controlled by a harness or orange-colored leash and collar. Pets may not be kept, bred or maintained for any commercial purpose. Any Service Animal must be temporarily caged, carried or kept on a leash when outside of a Unit. No Service Animal shall be kept tied on any portion of the Common Elements. A Unit Owner shall immediately pick up and remove any solid waste deposited by his Service Animal. The Unit Owner shall indemnify the Association and hold it harmless against any loss or liability of any kind or character whatsoever arising from or growing out of having any animal in the Condominium. If a Service Animal becomes obnoxious to the Unit Owners by barking or otherwise, the Unit Owner thereof must cause the problem to be corrected; or, if it is not corrected, the Unit Owner, upon written notice by the

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Association, will be required to permanently remove the Service Animal from the premises. The Association will promulgate rules and regulations from time to time designating other rules as necessary to regulate such Service Animals.

15.11. No outside television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any portion of the Condominium Property or upon any improvements thereon, unless expressly approved in writing by the Association, except that this prohibition shall not apply to those satellite dishes that are one (1) meter (39.37 inches) in diameter or less, and specifically covered by 47 C.F.R. Part 1, Subpart S, Section 1.4000, as amended, promulgated under the Telecommunications Act of 1996, as amended from time to time. The Association is empowered to adopt rules governing the types of antennae, restrictions relating to safety, location and maintenance of antennae. The Association may also adopt and enforce reasonable rules limiting installation of permissible dishes or antennae to certain specified locations, not visible from the street or neighboring properties and integrated with the Condominium Property and surrounding landscape, to the extent that reception of an acceptable signal would not be unlawfully impaired by such rules and provided the cost of complying with such rules would not unreasonably increase the cost of installation of permissible dishes or antennae. Notwithstanding the foregoing, no permissible dishes or antennae shall be installed on, over or through the Common Elements of the Condominium. Any approved antennae shall be installed in compliance with all federal, state and local laws and regulations, including zoning, land-use and building regulations. This Section 15.11 shall not apply to Developer.

15.12. No awning, canopy, or shutter, including a hurricane or storm shutter, shall be attached or affixed to the exterior of a Unit unless such awning, canopy or shutter has been approved by the Association. Hurricane shutters approved by the Association may only be installed and remain in place during a hurricane or hurricane warning or watch, and such shutters must be removed by the Unit Owner thereof, within forty-eight (48) hours thereafter, and if not so removed by an Owner such shutters may be removed by the Association as the expense of such Owner.

15.13. Units shall not be used for residential purposes and may be used for office, industrial, commercial, warehousing and retail purposes only.

15.14. No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all laws, zoning ordinances and regulations of all governmental or quasi-governmental authorities having jurisdiction thereover shall be observed.

15.15. Developer has the right, but not the obligation, to assign the use of a particular parking space ("Parking Space") located on the Condominium Property to a particular Unit. Notwithstanding the foregoing, the use of Parking Spaces within the Condominium Property have been set aside for the exclusive use of the Unit Owners and their lessees and the family members, occupants, guests and invitees of such Unit Owners and lessees. Developer shall allocate a certain number of parking spaces to each Unit (except those Unit[s] owned by Developer) based upon that Unit's square footage, location in the Buildings and the Condominium Property and the requirements of applicable governmental authorities as set forth on Exhibit "G" attached hereto and made a part hereof. Notwithstanding the foregoing, Developer specifically reserves the right to reserve Parking

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Spaces for "customer or employee parking only" in connection with its sales activities. Developer shall keep and maintain a ledger indicating the number of parking spaces allocated to each Building Unit. Developer shall have the right to reallocate parking spaces at any time and reserves the right to allocate additional parking spaces per square foot of a Unit. Upon the Turnover Date (as defined in the Articles), the Association shall continue to keep and maintain such ledger and shall have the right to enforce such parking allocations in accordance with this Declaration.

In the event Developer chooses to assign a particular Parking Space to a particular Unit in accordance with this Article 15, such assignment shall be made by a written "Parking Space Assignment" form ("Assignment") in which the particular Parking Space is described. The Association shall maintain a book ("Book") for the purpose of recording the current assignee of each Parking Space. Upon assignment of a Parking Space by Developer, Developer shall cause the Association to record such Assignment in the Book, and the particular Unit to which such use is assigned shall have the exclusive right to the use of such assigned Parking Space. The use right to such Parking Space shall thereupon be appurtenant to said Unit and shall be deemed encumbered by and subject to any mortgage or any claim thereafter encumbering said Unit. Upon conveyance of or passing of title to the particular Unit to which the use of such assigned Parking Space is appurtenant, the new Owner receiving such title shall give satisfactory evidence to the Association of such title, and the Association shall thereupon cause to be executed in the name of the grantee or transferee of such Units thereof a new Assignment and record such transfer in the Book. Such Assignment shall be executed by any two (2) officers of the Association and shall describe the assigned Parking Space and the name of the transferee and the transferee's Unit number.

In the event any Parking Spaces have not been assigned to a particular Unit after Developer no longer owns a Unit in the Condominium, such Parking Spaces may be assigned, used or leased on such terms and conditions as the Board may from time to time determine.

15.16. Developer has the right, but not the obligation, to assign the use of a space on the Sign Easement Areas (as identified in Section 10.13 above) to a particular Unit for additional consideration.

15.17. Each Unit Owner, by acceptance of a deed or other conveyance of his/her/its Unit(s), hereby acknowledges and agrees that sound transmission in a building such as the Condominium is very difficult to control, and that the noises from adjoining or nearby Units and/or mechanical equipment can often be heard in another Unit. Developer does not make any representation or warranty as to the level of sound transmission between and among Units and the other portions of the Condominium Property, and each Unit Owner hereby waives and expressly releases any such warranty and claim for loss or damages resulting from sound transmission.

15.18. The Association, through its Board, may, from time to time, promulgate such other rules and regulations with respect to the Condominium as it determines to be in the best interests of the Condominium and the Unit Owners. The Board may promulgate, modify, alter, amend or rescind such rules and regulations provided such promulgation, modifications, alterations and amendments: (i) are consistent with the use covenants set forth in the Condominium Documents; (ii) apply equally to all lawful Unit Owners without discriminating on the basis of whether a Unit is occupied by a Unit Owner or his/her/its lessee; and (iii) in Developer's opinion, for so long as Developer holds title to

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any Units, would not be detrimental to the sales of Units by Developer.

15.19. Notwithstanding any other rule, regulation, or restriction to the contrary herein contained, the Board shall make reasonable accommodations in the rules, regulations or restrictions, if such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy the Condominium Property.

15.20. Unit Owners shall abide by each and every rule and regulation promulgated from time to time by the Board. In no event will any rules and regulations obviate the uses permitted by the governmental ordinances having jurisdiction over same nor will any rules and regulations materially alter the provisions of this Declaration. The Board shall give a Unit Owner in violation of any rules and regulations, written notice of the violation by U.S. Certified Mail, return receipt requested, and fifteen (15) days from the postmark on the notice in which to cure the violation. If the Unit Owner fails to cure the violation then in addition to the exercise of all other remedies, the Association or Developer shall have the right but not the obligation, upon an additional fifteen (15) days written notice, to enter the Unit of the Unit Owner for the purpose of curing the violation referred to, set forth and described in the notice, and to levy on the offending Unit Owner a charge equal to the cost of performing such maintenance and any such charge shall constitute a lien upon the applicable Unit with the same force and effect as a lien for Assessments for Common Expenses. The determination of whether a Unit Owner is failing to properly maintain and care for the property for which he/she/it has the maintenance responsibility shall be determined in the sole discretion of the Association or Developer. It is each Unit Owner's responsibility to keep the Association informed of such Unit Owner's proper address for notice purposes; otherwise, the Association shall send notices to the address appearing on the deed to the Unit Owner's Unit(s).

15.21. Should the Association be required to seek enforcement of any provision of this Declaration or any rules and regulations of the Association, then and in that event, the offending Unit Owner shall be responsible for the actions or non-actions of its occupants, lessees, employees, customers, contractors, and sub-contractors.

## 16. SALES, LEASES AND CONVEYANCES

In order to assure a commercial community of congenial owners, lessees, employees, customers, contractors, and thus protect the value of the Units and to further the continuous development of the Condominium Property, the sale or lease of Units shall be subject to the following provision:

16.1. The Unit Owner shall notify the Association in writing of his/her/its intention to sell or lease his/her/its Unit(s) and furnish with such notification a copy of the contract for sale (and after closing, the buyer shall furnish a copy of the deed) or lease, whichever is applicable. No approval of such transaction is required by the Association. The purpose of this requirement is to keep the Association informed of ownership and occupancy of all Units.

16.2. An entire Unit or portion of a Unit may be leased as long as the leased portion is not less than one thousand five hundred (1500) square feet. Any and all lease agreements between a Unit Owner and a lessee of such Unit Owner's Unit or any portion thereof shall be in writing, shall

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provide for a term of not less than one (1) year, and must provide that the lessee shall be subject in all respects to the terms and provisions of this Declaration and that any failure by the lessee under such lease agreement to comply with such terms and conditions shall be a material default and breach of the lease agreement. The lease agreement shall also state who will be responsible for the Assessments due the Association as stated above, and it shall be the obligation of all Unit Owners to supply the Board with a copy of said written agreement prior to the lessee occupying the premises. Unless provided to the contrary in a lease agreement, a Unit Owner, by leasing his/her/its Unit or any portion thereof, automatically delegates his/her/its right of use and enjoyment of the Condominium Property and facilities to his/her/its lessee; and in so doing, said Unit Owner relinquishes said rights during the term of the lease agreement.

16.3. Upon receipt of a copy of the contract for sale, the Association shall, within ten (10) business days issue a certificate, in recordable form, acknowledging receipt of such contract for sale or lease. In the event of a sale it shall then be the responsibility of the purchaser of the Unit to furnish the Association with a recorded copy of the deed of conveyance indicating the new Unit Owner's mailing address for all future assessment notices and other correspondence from the Association. Provided, however, prior to the issuance by the Association of a certificate acknowledging receipt of such contract for sale or lease, the purchaser or lessee shall be required to execute a certificate acknowledging receipt of a copy of this Declaration and any rules and regulations of the Association acknowledging that he/she/it takes title subject to this Declaration and any rules and regulations which he/she/it agrees to abide by. The Association shall then retain one signed copy in the Association's records, and furnish one copy to the purchaser or lessee.

16.4. Except as provided in Section 16.5 below it is not the intention of this Article to grant to the Association a right of approval or disapproval of purchasers or lessees. It is, however, the intent of this Article to impose an affirmative duty on the Unit Owners to keep the Association fully advised of any changes in occupancy or ownership for the purposes of facilitating the management of the Association's membership records. As this Article is a portion of this Declaration which runs with the land, any transaction which is conducted without compliance with this Article may be voidable by the Association.

16.5. Notwithstanding the provisions of Section 16.3 above, in the event that a Unit Owner is delinquent in paying any Assessment or special charge for any of the Units owned by said Unit Owner, or the Unit Owner or his/her/its buyer, family, guests, agents, licensees or invitees are not in compliance with any provisions of this Declaration, the Association has the right to disapprove of any sale; and in the case of a lease, the right to disapprove of and to void any lease at any time prior to or during the leasehold tenancy until any delinquent Assessment or special charge is paid and/or until any violation of any provision of this Declaration is corrected.

## 17. MAINTENANCE AND REPAIR PROVISIONS

### 17.1. By the Unit Owner

17.1.1. Maintenance and Repair. Each Unit Owner shall maintain in good condition, repair and replace at his/her/its expense all portions of his/her/its Unit, including the portion of a Party Wall located within his/her/its Unit, all window glass, window screens and all interior surfaces

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within or surrounding his/her/its Unit (such as the surfaces of the walls, ceilings and floors) and all Unit doors to a Unit, including, but not limited to, casings and hardware therefor; maintain and repair the fixtures, including air conditioning equipment; and pay for all utilities which are separately metered or submetered to his/her/its Unit. Notwithstanding the foregoing and in order to maintain aesthetic uniformity, the Association shall be responsible for the repair and replacement of all window glass for each Unit within the Condominium Property in the event such repair and replacement is required as a result of a hurricane or other natural catastrophe. Every Unit Owner must perform promptly all maintenance and repair work within his/her/its Unit, as aforesaid, which if not performed would affect the Condominium Property or a Unit belonging to another Unit Owner. Each Unit Owner shall be expressly responsible for damages and liabilities that his/her/its failure to perform his/her/its above-mentioned responsibilities may engender. All Units shall be maintained or repaired in accordance with the building plans and specifications utilized by Developer, copies of which are to be on file in the office of the Association, except for changes or alterations approved by the Association as provided in this Declaration.

In addition to the foregoing, each Unit Owner shall be required to maintain appropriate climate control, keep his/her/its Unit clean, and take necessary measures to retard and prevent mold from accumulating in the Unit. Each Unit Owner shall be required to clean and dust the Unit on a regular basis and to remove visible moisture accumulation on windows, window sills, walls, floors, ceilings and other surfaces as soon as reasonably possible and must not block or cover any heating, ventilation or air-conditioning ducts. Unit Owners are required to report immediately in writing to the Board (i) any evidence of water leak or water infiltration or excessive moisture in the Unit and any common areas; (ii) any evidence of mold that cannot be removed with a common household cleaner; (iii) any failure or malfunction in heating, ventilation or air conditioning, and (iv) any inoperable doors or windows and each Unit Owner shall be responsible for damage to the Unit and personal property as well as any injury to the Unit Owner and/or occupants of the Unit resulting from the Unit Owner's failure to comply with these terms. Each Unit Owner is fully responsible and liable for the entire amount of all cleaning expenses and remediation costs incurred by the Association to remove mold from the Unit if the Unit Owner fails to remediate same and each Unit Owner shall be responsible for the repair and remediation of all damages to the Unit caused by mold.

17.1.2. Alterations. No Unit Owner shall make any alterations in any Building or the Common Elements which are to be maintained by the Association or remove any portion thereof or make any additions thereto, except as otherwise provided in this Declaration; provided, however, no Unit Owner shall do anything with his/her/its Unit or the Common Elements which would or might jeopardize or impair the safety or soundness of any Building, the Common Elements or which, in the sole opinion of the Board or Developer, would detrimentally affect the architectural design of any Building or Condominium Property without first obtaining the written consent of the Board.

Notwithstanding the foregoing, the Board shall have the right, but not the obligation, to permit a Unit Owner, at his/her/its sole cost and expense, to install additional window(s) or doorway(s) or other type aperture(s) to such Unit Owner's Unit or to seal up previously existing window or doorway or other type apertures to such Unit Owner's Unit, any of which apertures are located in or would be located in a Common Element wall which is a boundary to such Unit Owner's Unit; provided, however, that such new aperture or sealing up of an existing aperture would in no way affect the structural integrity or soundness of the Condominium Property. The

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approval of the Board, if granted, shall be in writing and shall be upon such terms and conditions as the Board shall determine in its sole and absolute discretion, and the approval of the Unit Owners or any mortgagees, other than the Unit Owner requesting such alteration and the mortgagee of said Unit Owner's Unit, if any, shall not be required, except that as long as Developer owns a Unit in the Condominium, the approval of Developer shall also be required.

17.1.3. Painting and Board Approval. No Unit Owner shall paint, refurbish, stain, alter, decorate, repair, replace or change the Common Elements or any outside or exterior portion of the Buildings maintained by the Association, including but not limited to, walkways, stairways, doors or entryways, if any (except for general maintenance of window glass), etc. No Unit Owner shall have any exterior lighting fixtures, mail boxes, window screens, screen doors, awnings, hurricane shutters, hardware or similar items installed which are not consistent with the general architecture of the Buildings maintained by the Association and without first obtaining specific written approval of the Board. The Board shall not grant approval if, in their opinion, the effect of any of the items mentioned herein will be unsightly as to the portion of any Building maintained by the Association and unless such items substantially conform to the architectural design of the Buildings and the design of any such items which have previously been installed at the time the Board approvals are requested.

17.1.4. Utilities. Each Unit Owner shall install, maintain, repair and replace at his/her/its sole cost and expense all ducts, conduits, piping, wiring, appliances, fixtures and other facilities located within his/her/its Unit, which furnish utility services to only his/her/its Unit or located outside of his/her/its Unit which furnish utility services solely to his/her/its Unit. Each Unit Owner is also responsible for installing and maintaining submeters within his/her/its Unit, if required by the Developer or the Association.

17.1.5. Duty to Report. Each Unit Owner shall promptly report to the Association or its agents any defect or need for repairs on the Condominium Property, the responsibility for the remedying of which is that of the Association.

17.1.6. Use of Licensed Plumbers and Electricians. No Unit Owner shall have repairs made to any plumbing or electrical wiring within a Unit, except by licensed plumbers or electricians authorized to do such work by the Board. The provisions as to the use of a licensed plumber or electrician shall not be applicable to any Institutional Mortgagee or to Developer. Plumbing and electrical repairs within a Unit shall be paid for by and shall be the financial obligation of the Unit Owner, unless such repairs are made in a Unit to plumbing and electrical systems servicing more than one (1) Unit, in which event such cost shall be a Common Expense.

17.1.7. Access by Association. Each Unit Owner shall permit the Association to have access to his/her/its Unit(s) from time to time during reasonable hours when necessary for the maintenance, repair or replacement of any Common Elements or for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Unit.

17.1.8. Air-Conditioning. Air conditioning units and service lines regarding any such air conditioning units which serve only one (1) Unit shall be maintained, replaced or repaired by the Unit Owner whose Unit is serviced by the air conditioning unit; provided, however, that if any repair

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or alteration is to be made in any Common Elements, the Board shall approve all such work.

17.1.9. Liability for Actions. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement of any real or personal property rendered necessary by his/her/its act, negligence or carelessness, or by that of his/her/its lessee or any member of their families, or their guests, employees or agents (normal wear and tear excepted) but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include the cost of repairing broken windows. A Unit Owner shall also be liable for any personal injuries caused by his/her/its negligent acts or those of his/her/its lessee or any member of their families, or their guests, employees or agents. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

17.1.10. Use of Licensed Architects and Building Permit Requirements. All plans and specifications for any alterations or construction of interior improvements performed pursuant to this Article or any other provision of this Declaration, shall be prepared by an architect currently licensed to practice in the State of Florida and such plans and specifications shall be submitted to the Association for approval prior to the commencement of any such alteration or construction of interior improvements. In addition to the foregoing, all plans and specifications for alterations or construction of interior improvements must comply with all applicable laws, ordinances and building codes and all contractors and subcontractors must be duly licensed. Any and all such alterations or construction of interior improvements must be performed pursuant to building permits issued by the applicable governmental body, if required by law or ordinance. Notwithstanding the foregoing provisions, any plans and specifications required or approved by the Association pursuant to this Declaration for the alteration or construction of interior improvements, shall not, in any way, be deemed to be construed to be a representation or warranty as to the Association or to Developer that said plans and specifications comply with the applicable building codes. Further, Developer or the Board shall have no liability or responsibility of any type or nature in the event any such plans and specifications submitted by a Unit Owner do not comply with applicable building codes.

## 17.2. By the Association

17.2.1. Improvements. The Association shall maintain, repair and replace as necessary any and all improvements located upon the Common Elements and the Condominium Property (excluding the Units), including, without limitation, the parking spaces, drives, exterior of the Buildings, roofs and awnings, if any, covered walkways, if any, Staircases, identification signage for the Condominium Property, electric meter rooms and mailbox structures, if any, and such maintenance, repair and replacement shall be a Common Expense. Maintenance includes, but is not limited to, the following: cleanup, landscape care and replacement, lawn care, services related to drainage areas, painting, structural and mechanical upkeep and repair, and repaving parking areas and drives. The Association shall maintain and repair all exterior walls of the Buildings. Notwithstanding the foregoing, the Association shall not be responsible for the repair or replacement of doors or glass to any Unit, except as otherwise provided in Section 17.1.1. Upon the Turnover Date (as defined in the Articles), Developer shall transfer any roof warranties to the Association.



17.2.2. Utilities. There is a master water/sewer meter on the Condominium Property. The Association reserves the right to require each Unit Owner to install individual water/sewer submeters for such Unit Owner's Unit at his/her/its sole cost and expense and to be responsible for payment for water/sewer (through the Association) usage to the appropriate public utility company. The Association shall maintain, repair and replace all equipment, pipes, fixtures or utility lines which are intended by the original design of the Building by Developer to serve in common more than one (1) Unit. The Association shall also be responsible for electricity and water utility charges serving the Common Elements which may be commonly metered, the costs of which shall be a Common Expense. Notwithstanding any contained herein to the contrary, the Association shall not be responsible for the repair and replacement of air conditioning compressors, air conditioning duct work, air handlers and air handling units serving only one (1) Unit; sewer and water lines, drains, plumbing fixtures and connections serving only one (1) Unit; electrical wiring, electrical outlets and electric fixtures within a Unit and serving only one (1) Unit; telephone conduit and wire serving only one (1) Unit, such repair and replacement shall be the responsibility of a Unit Owner.

17.2.3. Landscaping. The Association shall maintain all landscaping within the Condominium Property. Maintenance may include, but is not limited to, grass cutting, tree trimming, sprinkling, fertilizing, spraying, and maintaining and operating any amenities or structures established in such areas. The cost of the foregoing shall be a Common Expense.

17.2.4. Compliance With Regulations of Public Bodies. The Association shall perform such acts and do such things as shall be lawfully required by any public body having jurisdiction over the same in order to comply with sanitary requirements, fire hazard requirements, zoning requirements, setback requirements, drainage requirements and other similar requirements designed to protect the public. The cost of the foregoing shall be a Common Expense.

17.2.5. Surface Water Management System. The Association shall be responsible for the maintenance, operation and repair of the surface water management system located on the Condominium Property, including, but not limited to the drainage swales, if any. The cost of the foregoing shall be a Common Expense.

### 17.3. No Warranties

The Condominium Property was completed more than five (5) years prior to the recording of this Declaration. Accordingly, Developer is not providing any warranties with respect to the Units, the Common Elements or the Association Property. Same have been or shall be conveyed by Developer "as is."

### 17.4. Alterations and Improvements

The Association shall have the right to make or cause to be made structural changes and improvements of the Common Elements which are approved by the Board and which do not prejudice the rights of any Unit Owner or any Institutional Mortgagee. In the event such changes or improvements prejudice the rights of a Unit Owner or Institutional Mortgagee, the consent of such Unit Owner or Institutional Mortgagee so prejudiced shall be required before such changes or improvements may be made or caused. In any event, approval of the Board shall be submitted for

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ratification by the affirmative vote of the Unit Owners of two-thirds (2/3) of the Voting Interests if the cost of the same shall be a Common Expense which shall exceed One Thousand Dollars (\$1,000.00) per Unit in any twelve (12) month period. The cost of such alterations and improvements shall be assessed among the Unit Owners in proportion to their share of Common Expenses.

## 18. ASSESSMENTS FOR COMMON EXPENSES; ESTABLISHMENT AND ENFORCEMENT OF LIENS

### 18.1. Affirmative Covenant to Pay Common Expenses

In order to: (i) fulfill the covenants contained in this Declaration; (ii) provide for maintenance and preservation of the Common Elements for the recreation, safety, welfare, and benefit of Unit Owners, their invitees, guests, family members and lessees, subject to the terms of this Declaration; and (iii) provide for maintenance and preservation of the services and amenities provided for herein, there is hereby imposed upon the Units and the Unit Owners thereof the affirmative covenant and obligation to pay the Assessments including, but not limited to, the Annual Assessments, and special charges pursuant to this Declaration, if any, charged against a Unit. Each Unit Owner, by acceptance of a deed or other instrument of conveyance for a Unit, whether or not it shall be so expressed in any such deed or instrument, shall be so obligated and agrees to pay to the Association all Assessments and special charges determined in accordance with the provisions of this Declaration and all of the covenants set forth herein shall run with the Condominium Property and each Unit therein.

### 18.2. Lien

The Annual Assessment and Special Assessments, as determined in accordance with this Article 18, together with Interest thereon and costs of collection thereof, including Legal Fees as hereinafter provided, are, pursuant to the Act, subject to a lien right on behalf of the Association to secure payment thereof and such Assessments are hereby declared to be a charge on each Unit and shall be a continuing lien upon the Unit against which each such Assessment is made. Each Assessment against a Unit together with Interest thereon and costs of collection thereof, including Legal Fees, shall be the personal obligation of the person, persons, entity and/or entities owning the Unit so assessed. Notwithstanding anything herein to the contrary, a lien against a Unit shall be and is hereby deemed to be a lien against all Units owned by the same Unit Owner. The Association's statutory lien for Assessments shall be effective only from and after the time of recordation amongst the Public Records of the County of a written acknowledged statement by the Association, as of the date the statement is signed setting forth the description of the condominium parcel, the name of the record owner, the name and address of the association, the amount due to the Association and the due dates. Upon full payment of all sums secured by such lien or liens, the party making payment shall be entitled to a recordable satisfaction of the statement of lien.

In addition to the foregoing, special charges, as determined in accordance with this Article 18 and charged pursuant to this Declaration, together with Interest thereon and costs of collection thereof, including Legal Fees as hereinafter provided, are also subject to a lien right on behalf of the Association to secure payment thereof and such special charges are hereby declared to

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be a charge on each Unit and shall be a continuing lien upon the Unit against which each such special charge is made. Each special charge against a Unit together with Interest thereon and costs of collection thereof, including Legal Fees, shall be the personal obligation of the person, persons, entity and/or entities owning the Unit so charged. Notwithstanding anything herein to the contrary, a lien against a Unit shall be and is hereby deemed to be a lien against all Units owned by the same Unit Owner. The Association's lien for special charges shall be effective only from and after the time of recordation amongst the Public Records of the County of a written acknowledged statement by the Association, as of the date the statement is signed setting forth the description of the condominium parcel, the name of the record owner, the name and address of the association, the amount due to the Association and the due dates. Upon full payment of all sums secured by such lien or liens, the party making payment shall be entitled to a recordable satisfaction of the statement of lien. The lien for special charges is not a lien pursuant to the Act.

18.2.1. Personal Obligation. Each Assessment and special charge against a Unit, together with Interest thereon and costs of collection thereof, including Legal Fees, shall be the personal obligation of the person, persons, entity and/or entities owning the Unit so assessed or charged. Any payment by a Unit Owner with respect to Assessments or special charges is hereby deemed for all purposes to be paid by the Unit Owner on a pro rata basis as to each Unit owned by such Unit Owner's Unit. Likewise, any unpaid Assessments and unpaid special charges as to a particular Unit Owner shall be deemed to be due from such Unit Owner as to each Unit (on a pro rata basis) owned by said Unit Owner.

18.2.2. Institutional Mortgagees. An Institutional Mortgagee or other person who obtains title to a Unit by foreclosure of a first mortgage, or Institutional Mortgagee who obtains title to a Unit by deed in lieu of foreclosure, shall be liable for the unpaid Assessments that became due prior to such acquisition of title to the extent required by Section 718.116, Florida Statutes as it exists at the time of recording this Declaration in the Public Records of the County. Assessments and special charges which are not due from such Institutional Mortgagee shall become a Common Expense collectible from all Unit Owners pursuant to this Article 18. Notwithstanding the foregoing or anything in this Declaration to the contrary, a lien for such special charge(s) charged pursuant to this Declaration shall be null and void and such unpaid special charges shall not be the obligation of the acquirer of title, in the event a mortgagee or other person obtains title to a Unit(s) by foreclosure of a first mortgage, or in the event an Institutional Mortgagee obtains title to a Unit(s) by deed in lieu of foreclosure, but rather such obligation for the unpaid special charges which were secured by the lien shall remain the personal obligation of the Unit Owner of the applicable Unit(s) at the time said special charges were so charged. The lien for special charges may be foreclosed in the same manner as the foreclosure of a mortgage.

### 18.3. Enforcement

In the event that any Unit Owner shall fail to pay any Annual Assessment, or installment thereof, any Special Assessment, or installment thereof, or any special charge, or installment thereof, charged to such Unit Owner's Unit(s) within fifteen (15) days after the same becomes due, then the Association, through its Board, shall have the following remedies:



(i) To advance, on behalf of the Unit Owner in default, funds to accomplish the needs of the Association; provided that: (a) the amount or amounts of monies so advanced, including Legal Fees and expenses which have been reasonably incurred because of or in connection with such payments, together with Interest thereon, may thereupon be collected by the Association; and (b) such advance by the Association shall not waive the default of the Unit Owner in failing to make its payments;

(ii) To accelerate the entire amount of any Assessments for the remainder of the budget year in accordance with the provisions of the Act;

(iii) To file an action in equity to foreclose its lien at any time after the effective date thereof or an action in the name of the Association in like manner as a foreclosure of a mortgage on real property; and

(iv) To file an action at law to collect the amount owing plus Interest and Legal Fees without waiving its lien rights and its right of foreclosure.

#### 19. METHOD OF DETERMINING, ASSESSING AND COLLECTING ASSESSMENTS

The Assessments as hereinafter set forth and described shall be assessed to and collected from Unit Owners on the following basis:

##### 19.1. Determining Annual Assessment

19.1.1. Expenses. The total anticipated Common Expenses for each calendar year shall be set forth in a schedule to the Budget of the Association which shall be prepared by the Board as described in the Articles and Bylaws. The total anticipated Common Expenses shall be that sum necessary for the maintenance and operation of the Condominium and such expenses shall be allocated to the Units based upon the relative square footage of each Unit as set forth on Exhibit "E" attached hereto, which allocated sum, shall be assessed as the "Annual Assessment." For purposes of determining a pro rata share of Common Expenses applicable to each Unit, the total square footage of all Units shall be used as the denominator and the square footage of the particular Unit as the numerator for the calculation of the pro rata share of the Common Expenses applicable to each Unit. The Annual Assessment may be adjusted quarterly in the instance where the Board determines that the estimated Common Expenses are insufficient to meet the actual Common Expenses being incurred, in which event the anticipated Common Expenses for the remaining quarters may be increased accordingly in calculating the Annual Assessment.

19.1.2. Assessment Payment. The Annual Assessment shall be payable quarterly in advance on the first days of January, April, July and October of each year, or at such other time as may be determined by the Board from time to time but in no event less frequently than quarterly. The Association may at any time require the Unit Owners to maintain a minimum balance on deposit with the Association to cover future installments of Assessments. The amount of such deposit shall not exceed one-quarter (1/4) of the then current Annual Assessment for the Unit.

## 19.2. Developer's Guarantee

From the recording of this Declaration until December 31<sup>st</sup> of the calendar year in which this Declaration was recorded, Developer guarantees that Assessments for Common Expenses of the Association will not exceed certain amounts. The guaranteed amount (which does not include Reserves because Reserves have been waived by Developer as the sole member of the Association in accordance with the provisions of Section 718.112(2)(f)2 of the Act) is as set forth on the Schedule of Assessments of the initial Association Budget. Developer will pay all Common Expenses not paid for by assessments of Units ("Guarantee for Common Expenses"). Developer's guarantee is made in accordance with the provisions of Section 718.116(9)(a)(2) of the Act. The expiration of the guarantee period is December 31<sup>st</sup> of the calendar year that this Declaration is recorded; provided, however, that the Guarantee for Common Expenses shall automatically terminate on the Majority Election Date (as defined in the Articles) in the event the Majority Election Date occurs prior to December 31<sup>st</sup> of the calendar year in which this Declaration was recorded.

Developer reserves the right to extend the Guarantee Period for one (1) additional year by providing the Association with notice prior to the then current date set forth as the end of the Guarantee Period of Developer's intention to extend the Guarantee Period and such notice shall specify the new termination date of the Guarantee Period. The Guarantee Period or any extension thereof shall terminate on the date of the Majority Election Date.

Assessments determined as provided in Section 19.1 or the Bylaws shall be determined and made commencing with the date when the extended Guarantee Period ends or when control of the Association is turned over to Unit Owners other than Developer, whichever is the sooner to occur and Developer will pay any such Assessments for any of the Units owned by Developer from and after such date.

## 19.3. Special Assessments

In addition to the Annual Assessment, Unit Owners shall be obligated to pay such Special Assessments as shall be levied by the Board against their Units in accordance with the Bylaws, either as a result of: (i) extraordinary items of expense; (ii) costs incurred in correcting maintenance deficiencies of a particular Unit or in otherwise enforcing the provisions of the Condominium Documents; (iii) the failure or refusal of other Unit Owners to pay their Annual Assessment; or (iv) such other reason or basis determined by the Board which is not inconsistent with the terms of the Condominium Documents or the Act.

## 20. COMMON EXPENSES

The following expenses are declared to be Common Expenses of the Condominium which each Unit Owner is obligated to pay to the Association as provided in this Declaration and the Condominium Documents.

#### 20.1. Taxes

Any and all taxes levied or assessed at any and all times by any and all taxing authorities including all taxes, charges, assessments and impositions and liens for public improvements, special charges and assessments and water drainage districts, and in general all taxes and tax liens which may be assessed against the Common Elements and against any and all personal property and improvements, which are now or which hereafter may be a portion thereof to be placed thereon, including any interest, penalties and other charges which may accrue thereon shall, as appropriate, be considered Common Expenses.

#### 20.2. Utility Charges

All charges levied for utility services to the Common Elements, whether supplied by a private or public firm including without limitation all charges for water, gas, electricity, telephone, sewer, trash removal (including costs associated with trash dumpsters) and any other type of utility or service charge.

#### 20.3. Cable Television/Internet Access

Developer and/or the Association may elect to enter into a Cable Television/Internet Access (hereinafter referred to as "CATV") Agreement for CATV pre-wire and/or bulk CATV service for the Association. These agreements will provide that a licensed CATV operator agrees to supply, and the Association agrees to receive and pay for, CATV basic service for all members of the Association located within the Condominium. The Association will grant the CATV operator the right to enter upon, occupy, and use such areas of the Condominium as are necessary to enable the CATV operator to construct, install, operate, maintain and repair the CATV facilities which are owned by the CATV operator. Developer hereby discloses that it may be paid by the CATV operator to install the necessary CATV outlets throughout all Units within the Condominium. The CATV operator will have the exclusive right to supply CATV service to all Units within the Condominium. The Association may be required to sign a Bulk CATV Service Agreement obligating the Association to pay the monthly cost of CATV basic service for all Units located within the Condominium. In such event, the cost of CATV basic service shall be a Common Expense and shall be equal as to each Unit and not based upon the square footage of such Unit.

#### 20.4. Insurance

The premiums on any policy or policies of insurance required to be maintained under this Declaration and the premiums on any policy or policies the Association determines to maintain on the Condominium Property or specifically related to the Condominium, even if not required to be maintained by the specific terms of this Declaration, shall be Common Expenses. Any and all insurance premiums to insure the interior improvements and the contents installed in Units or owned by the Unit Owner(s) of a Unit shall be the responsibility of the Unit Owner(s) of the Unit.

## 20.5 Destruction of Buildings or Improvements

Any sums necessary to repair or replace, construct or reconstruct damages caused by the destruction of any building or structure upon the Common Elements by fire, windstorm, flood or other casualty regardless of whether or not the same is covered in whole or in part by insurance, including all amounts required to be deducted from any proceeds received by the Association from an insurer pursuant to a deductible clause in the applicable insurance agreement, shall be Common Expenses. In the event insurance money shall be payable, such insurance money shall be paid to the Association who shall open an account with a banking institution doing business in the County, for the purpose of providing a fund for the repair and reconstruction of the damage. The Association shall pay into such account, either in addition to the insurance proceeds, or in the event there are no insurance proceeds, such sums as may be necessary so that the funds on deposit will equal the costs of repair and reconstruction of the damage or destruction. The sums necessary to pay for the damage or destruction as herein contemplated shall be considered Common Expenses, but shall be raised by the Association under the provisions for Special Assessments as provided in Section 19.3 of this Declaration. The Association agrees that it will levy Special Assessments to provide the funds for the cost of reconstruction or construction within ninety (90) days from the date the destruction takes place and shall go forward with all deliberate speed so that the construction or reconstruction, repair or replacement, shall be completed, if possible, within nine (9) months from the date of damage.

## 20.6. Maintenance, Repair and Replacements

Common Expenses shall include all expenses necessary to (a) maintain and preserve the exterior and structural components of each Building in which the Units are located (including roof and roof cleaning, exterior walls, water, sewer and utility lines to the extent shared among Units); and (b) keep, maintain, repair and replace any and all Building improvements, fixtures and equipment, storm water management system, walkways, drives, parking areas, landscaping, lawn and sprinkler service, of the Association upon the Common Elements in a manner consistent with the development of the Condominium and in accordance with the covenants and restrictions contained herein and with all orders, ordinances, rulings and regulations of any and all federal, state and city governments having jurisdiction thereover including the statutes and laws of the State of Florida and the United States. This shall include any expenses attributable to the maintenance and repair and replacement of pumps or other equipment, if any, located upon or servicing the Condominium Property, pursuant to agreements between the Association and utility corporations. Any expenses for replacements which would not be in the nature of normal repair and maintenance shall be the subject of a Special Assessment as provided in Section 19.3 of this Declaration.

## 20.7. Administrative and Operational Expenses

The costs of administration of the Association including, but not limited to, any secretaries, bookkeepers and other employees necessary to carry out the obligations and covenants of the Association as to the Condominium shall be deemed to be Common Expenses. In addition, it is contemplated that the Association may retain a management company or companies or contractors (any of which management companies or contractors may be, but are not required to be, a subsidiary, affiliate or an otherwise related entity of Developer) to assist in the operation of the Condominium Property and the Association Property, if any, and carrying out the obligations of the Association

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hereunder. The fees or costs of this or any other management company or contractors so retained shall be deemed to be part of the Common Expenses hereunder.

#### 20.8. Indemnification

The Association covenants and agrees that it will indemnify and hold harmless Developer and the members of the Board from and against any and all claims, suits, actions, damages, and/or causes of action arising from any personal injury, loss of life, and/or damage to property sustained in or about the Condominium Property or the appurtenances thereto from and against all costs, Legal Fees, expenses and liabilities incurred in and about any such claim, the investigation thereof or the defense of any action or proceeding brought thereon, and from and against any orders, judgments and/or decrees which may be entered therein. Included in the foregoing provisions of indemnification are any expenses that Developer may be compelled to incur in bringing suit for the purpose of compelling the specific enforcement of the provisions, conditions and covenants contained in this Declaration to be kept and performed by the Association.

#### 20.9. Compliance with Laws

The Association shall take such action as it determines necessary or appropriate in order for the Common Elements to be in compliance with all applicable laws, statutes, ordinances and regulations of any governmental authority, whether federal, state or local, including, without limitation, any regulations regarding zoning requirements, setback requirements, drainage requirements, sanitary conditions and fire hazards, and the cost and expense of such action taken by the Association shall be a Common Expense.

#### 20.10. Failure or Refusal of Unit Owners to Pay Annual Assessments

Funds needed for Common Expenses due to the failure or refusal of Unit Owners to pay their Annual Assessments and/or Special Assessments and/or special charges, levied shall, themselves, be deemed to be Common Expenses and properly the subject of an Assessment.

#### 20.11. Extraordinary Items

Extraordinary items of expense under this Declaration such as expenses due to casualty losses and other extraordinary circumstances shall be the subject of a Special Assessment.

#### 20.12. Matters of Special Assessments Generally

Amounts needed for capital improvements, as hereinbefore set forth, or for other purposes or reasons as determined by the Board to be the subject of a Special Assessment which are not inconsistent with the terms of any of the Condominium Documents must also be approved by a majority vote of the Voting Interests at any meeting of members of the Association having a quorum, except that no such approval need be obtained for a Special Assessment for the replacement or repair of a previously existing improvement on the Condominium Property which was destroyed or damaged, it being recognized that the sums needed for such capital expenditure shall be the subject of a Special Assessment.

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#### 20.13. Costs of Reserves

The funds necessary to establish an adequate reserve fund ("Reserves") for periodic maintenance, repair and replacement of the Common Elements and the facilities and improvements thereupon in amounts determined sufficient and appropriate by the Board from time to time shall be a Common Expense. Reserves shall be levied, assessed and/or waived in accordance with the Act. The Reserves shall be deposited in a separate account to provide such funds and reserves. The monies collected by the Association on account of Reserves shall be and shall remain the exclusive property of the Association and no Unit Owner shall have any interest, claim or right to such Reserves or any fund composed of same.

#### 20.14. Miscellaneous Expenses

Common Expenses shall include the cost of all items of costs or expense pertaining to or for the benefit of the Association or the Common Elements or any part thereof not herein specifically enumerated and which is determined to be an appropriate item of Common Expense by the Board.

#### 20.15. Authority to Collect Certain Fees

The Association shall have the right, but not the obligation, to collect on behalf of providers of cable television, electric, water and other utilities, fees for such services and management fees, if applicable, as Common Expenses.

#### 20.16. Property to be Owned or Maintained by the Association

Notwithstanding the current ownership of any real or personal property by Developer, in the event it is contemplated that such property will be owned or is to be maintained by the Association or if this Declaration so provides, then the costs associated by the ownership or maintenance thereof shall be a Common Expense commencing with the recordation of this Declaration.

### 21. PROVISIONS RELATING TO FURTHER SUBDIVISION

#### 21.1. Subdivision.

A Unit may be subdivided by the Owner thereof into two (2) or more Units ("New Units"), provided no such New Unit shall be less than one thousand (1000) square feet in size, and further provided this Declaration is properly amended by the recordation of the appropriate supplemental declaration ("Supplemental Declaration") in the Public Records of the County, which shall provide for, among other things, a pro rata share of Common Expenses attributable to each New Unit ("New Square Footage Schedule") (which shares shall be based on the percentage realized with respect to the relative square footage of each New Unit to the total square footage of the subdivided Unit and applied to the original share of the subdivided Unit), New Unit number designations as necessary, a legal description and survey of the New Units including a common

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hallway to be shared by the New Units. Any such Supplemental Declaration shall be executed by all record Owners of the subdivided Unit and must be joined in by all record owners of liens on the subdivided Unit. With the exception of Developer, so long as Developer is an Owner of the Unit to be subdivided, any such Supplemental Declaration shall also be executed by the Association. No other Unit Owners need execute any such Supplemental Declaration. The voting rights for each New Unit shall be based upon the relative square footage of such New Unit. All costs associated with the subdivision of a Unit, including, but not limited to, survey costs, attorneys fees, any expenses of the Association and all costs of construction, including any repair or reconstruction necessary to make whole any Common Elements damaged in the construction of the New Units, shall be at the sole cost and expense of the Owner of the subdivided Unit. An Owner of a Unit to be subdivided shall also be responsible for complying with all governmental codes, for making changes to utilities with the New Units required and/or made necessary by the subdivision and for using licensed and insured contractors. Any instrument, whether a conveyance, mortgage or otherwise, which describes only a portion of the space within any Unit (except for a lease as to a portion of a Unit) shall be deemed to describe the entire Unit owned by the person executing such instrument. Developer shall have the unrestricted right to demise and/or subdivide any Units it owns in any way it sees fit.

#### 21.2. Description of New Units.

In the event a Unit is subdivided in accordance with this Article 21.1, the New Units created thereby shall bear the designation of the original Unit designation followed by a capital letter, for example, 101A, 101B, etc.

### 22. PROVISIONS RELATING TO SEVERABILITY

If any provision of this Declaration, any of the other Condominium Documents or the Act is held invalid, the validity of the remainder of this Declaration, the Condominium Documents or the Act shall not be affected.

### 23. PROVISIONS RELATING TO INTERPRETATION

#### 23.1. Titles

Article, paragraph and subparagraph titles in this Declaration are intended only for convenience and for ease of reference, and in no way do such titles define, limit or in any way affect this Declaration or the meaning or contents of any material contained herein.

#### 23.2. Gender

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



### 23.3. Member

As used herein, the term "member" means and refers to any person, natural or corporate, who becomes a member of the Association, whether or not that person actually participates in the Association as a member.

### 23.4. Rule Against Perpetuities

In the event any court should hereafter determine any provisions as originally drafted herein in violation of the rule of property known as the "rule against perpetuities" or any other rule of law because of the duration of the period involved, the period specified in this Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rule of law, and for such purpose, "measuring lives" shall be that of the incorporator of the Association.

## 24. PROVISIONS CONTAINING REMEDIES FOR VIOLATION

Each Unit Owner shall be governed by and shall comply with the Act and all of the Condominium Documents as such Condominium Documents may be amended and supplemented from time to time. Failure to do so shall entitle the Association, any Unit Owner or any Institutional Mortgagee holding a mortgage on any portion of the Condominium Property to either sue for injunctive relief, for damages or for both, and such parties shall have all other rights and remedies which may be available at law or in equity. The failure to enforce promptly any of the provisions of the Condominium Documents shall not bar their subsequent enforcement. In any proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of the Condominium Documents, the prevailing party shall be entitled to recover the costs of the proceeding and Legal Fees. The failure of the Board to object to Unit Owners' or other parties' failure to comply with covenants or restrictions contained herein or in any of the other Condominium Documents (including any rules and regulations promulgated by the Board) now or hereafter promulgated shall in no event be deemed to be a waiver by the Board or of any other party having an interest therein of its rights to object to same and to seek compliance therewith in accordance with the provisions of the Condominium Documents.

## 25. PROVISIONS FOR ALTERATIONS OF UNITS BY DEVELOPER

### 25.1. Developer's Reserved Right

Developer reserves the right to alter, change or modify the design and arrangement of all Units and to non-materially alter the boundaries between the Units as long as Developer owns the Units so altered (which alterations in Developer's Units are hereinafter referred to as the "Alterations").

### 25.2. Alterations Amendment

Any Alterations which will alter the boundaries of existing Common Elements of this Condominium will first require an amendment to this Declaration in the manner provided in Article 26 hereof.

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In the event the Alterations do not require an amendment in accordance with the above provisions, then, as long as Developer owns the Units being affected, an amendment of this Declaration shall be filed by Developer ("Developer's Amendment") in accordance with the provisions of this paragraph. Such Developer's Amendment need be signed and acknowledged only by Developer and need not be approved by the Association, Unit Owners or lienors or mortgagees of the Units, whether or not such approvals are elsewhere required for an amendment of this Declaration; provided, however, if the amendment is material, then the consent of a majority of the Voting Interests is also required.

## 26. PROVISIONS FOR AMENDMENTS TO DECLARATION

### 26.1. General Procedure

Except as to the Amendment described in Section 25.2 hereof, and the matters described in Sections 26.2, 26.3, 26.4, 26.5, 26.6 and 26.7 below, and except when a greater percentage vote is required by this Declaration for a certain action (in which case such greater percentage shall also be required to effect an amendment), this Declaration may be amended at any regular or special meeting of the Unit Owners called and held in accordance with the Bylaws, by the affirmative vote of not less than two-thirds (2/3) of the Voting Interests; provided that any amendment shall also be approved or ratified by a majority of the Board as a whole. An amendment to this Declaration shall be evidenced by a certificate executed by the Association and the amendment shall be recorded in accordance with the Act. A true copy of such amendment shall be sent by certified mail by the Association to Developer and to all Listed Mortgagees ("Mailing"). The amendment shall become effective upon its recording amongst the Public Records, but the amendment shall not be recorded until sixty (60) days after the Mailing, unless such sixty (60)-day period is waived in writing by Developer and all Listed Mortgagees.

### 26.2. Material Alteration

Except as otherwise provided in this Declaration, no amendment of the Declaration shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to such Unit, change the proportion or percentage by which the Unit Owner shares the Common Expenses and owns the Common Surplus and Common Elements or the Unit's voting rights in the Association, unless: (i) the record owner of the Unit; (ii) all record owners of liens on the Unit join in the execution of the amendment; and (iii) all the record owners of all other Units approve the amendment. Any such amendments shall be evidenced by a certificate joined in and executed by all the Unit Owners and all Institutional Mortgagees holding mortgages thereon and the amendment shall be recorded in the same manner as provided in Section 26.1; provided, however, no amendment to this Declaration shall change the method of determining Annual Assessments unless approved in writing by the Institutional Mortgagees holding mortgages encumbering two-thirds (2/3) of the Units encumbered by mortgages held by Institutional Mortgagees.

### 26.3. Defect, Error or Omission

Whenever it shall appear to the Board that there is a defect, error or omission in this Declaration, or in other documentation required by law to establish the Condominium, the Association, through its Board, shall immediately call for a special meeting of the Unit Owners to consider amending this Declaration or other Condominium Documents. Upon the affirmative vote of one-third (1/3) of the Voting Interests, with there being more positive votes than negative votes, the Association shall amend the appropriate documents. A true copy of such amendment shall be sent in conformance with the Mailing. The amendment shall become effective upon the recording of the amendment amongst the Public Records, but the amendment shall not be recorded until sixty (60) days after the Mailing, unless such sixty (60) day period is waived in writing by Developer and all Listed Mortgagees.

### 26.4. Rights of Developer, the Association and Institutional Mortgagees

Notwithstanding anything in this Declaration or any exhibits hereto to the contrary, no amendment shall be passed which shall impair or prejudice the rights or priorities of Developer, the Association or any Institutional Mortgagee under this Declaration and the other Condominium Documents without the specific written approval of Developer, the Association or any Institutional Mortgagees affected thereby. In addition, any amendment that would affect the surface water management system, including the water management portions of the Common Elements must have the prior approval of the South Florida Water Management District ("SFWMD"). The SFWMD Permit is attached hereto and made a part hereof as Exhibit "H."

### 26.5. Scrivener's Error

The Association may amend this Declaration and any exhibits hereto, in order to correct a scrivener's error or other defect or omission by the affirmative vote of two-thirds (2/3) of the Board without the consent of the Unit Owners provided that such amendment does not materially and adversely affect the rights of Unit Owners, lienors or mortgagees. This amendment shall be signed by the President of the Association and a copy of the amendment shall be furnished to the Association and all Listed Mortgagees and sent pursuant to the Mailing as soon after recording thereof amongst the Public Records as is practicable.

### 26.6. Amendments Required by Secondary Mortgage Market Institutions

Notwithstanding anything contained herein to the contrary, Developer may, without the consent of the Unit Owners, file any amendment which may be required by an Institutional Mortgagee for the purpose of satisfying such criteria as may be established by such mortgagee's secondary mortgage market purchasers.

### 26.7. Amendments Regarding Tenants

Any amendment to any of the Condominium Documents granting the Association or the Board the right to approve purchasers of Units or in any manner screen purchasers or tenants of any Unit Owner must first be approved by a majority of the Board, three-fourths (3/4) of the total

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Voting Interests (at a duly called meeting of the Unit Owners at which a quorum is present) and consent of Developer if Developer owns any Units.

#### 26.8. Condominium Documents

The Articles, Bylaws and other Condominium Documents shall be amended as provided in such documents so long as no amendment to any Condominium Documents conflicts with this Declaration.

#### 26.9. Form of Amendment

To the extent required by the Act, as amended from time to time, no provision of this Declaration shall be revised or amended by reference to its title or number only and proposals to amend existing provisions of this Declaration shall contain the full text of the provision to be amended; new words shall be inserted in the text and underlined; and words to be deleted shall be lined through with hyphens; provided, however, if the proposed change is so extensive that this procedure would hinder rather than assist the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicated for words added or deleted, but, instead a notation shall be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial Rewording of Declaration. See provision \_\_\_\_\_ for present text." Notwithstanding anything herein contained to the contrary, however, failure to comply with the above format shall not be deemed a material error or omission in the amendment process and shall not invalidate an otherwise properly promulgated amendment.

### 27. GENERAL PROVISIONS

#### 27.1. Developer's Right to Convey

The provisions, restrictions, terms and conditions of Article 16 hereof shall not apply to Developer as a Unit Owner, and in the event and so long as Developer shall own any Unit, whether by reacquisition or otherwise, Developer shall have the absolute right to sell, convey, transfer, mortgage or encumber in any way any such Unit upon any terms and conditions as it shall deem to be in its own best interests.

#### 27.2. Developer's Right to Transact Business

Developer reserves and shall have the right to enter into and transact on the Condominium Property, any business necessary to consummate the sale, lease or encumbrance of Units, including the right to maintain models and a sales and/or leasing office, place signs, employ sales personnel, hold promotional parties, use the Common Elements, show Units and including the right to carry on construction activities of all types necessary to construct all improvements in the Condominium pursuant to the plan for development as set forth in Article 8 hereof. Any such models, sales and/or leasing office, signs and any other items pertaining to such sales and/or leasing efforts shall not be considered a part of the Common Elements and shall remain the property of Developer.

### 27.3. Assignment

This Article 27 may not be suspended, superseded or modified in any manner by any amendment to this Declaration, unless such amendment is consented to in writing by Developer. The right of use and transaction of business as set forth in this Article 27 may be assigned in writing by Developer in whole or in part.

### 27.4. Severability

Invalidation of any one of these covenants or restrictions or of any of the terms and conditions herein contained shall in no way affect any other provisions which shall remain in full force and effect.

### 27.5. Rights of Mortgagees.

27.5.1. Right to Notice. The Association shall make available for inspection upon request, during normal business hours or under reasonable circumstances, the Condominium Documents and the books, records and financial statements of the Association to Unit Owners and the holders, insurers or guarantors of any first mortgages encumbering Units. In addition, evidence of insurance shall be issued to each Unit Owner and mortgagee holding a mortgage encumbering a Unit upon written request to the Association. A mortgagee shall be entitled to receive timely written notice of any proposed action that requires the consent of a specified percentage of mortgagees. To be entitled to receive notices under this Section 27.5.1. the mortgagee (or mortgage insurer or guarantor) must send a written request to the Association stating both its name and address, desired method of communication (if other than that provided for in Section 27.7 hereof) and the Unit(s) on which it has (or insures or guaranties) the mortgage.

27.5.2. Rights of Listed Mortgagee. Upon written request to the Association identifying the name and address of the Listed Mortgagee of a mortgage encumbering a Unit and the legal description of such Unit, the Association shall provide such Listed Mortgagee with timely written notice of the following:

27.5.2.1. Any condemnation, loss or casualty loss which affects any material portion of the Condominium, or any Unit encumbered by a first mortgage held, insured or guaranteed by such Listed Mortgagee;

27.5.2.2. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

27.5.2.3. Any proposed action which would require the consent of mortgagees holding a mortgage encumbering a Unit; and

27.5.2.4. Any failure by a Unit Owner owning a Unit encumbered by a mortgage held, insured or guaranteed by such Listed Mortgagee to perform his/her/its obligations under the Condominium Documents, including, but not limited to, any delinquency in the payment of Annual Assessments or Special Assessments, or any other charge owed to the Association by said

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Unit Owner where such failure or delinquency has continued for a period of sixty (60) days.

27.5.3. Right of Listed Mortgagee to Receive Financial Statement. Any Listed Mortgagee shall, upon written request made to the Association, be entitled free of charge to financial statements from the Association for the prior fiscal year and the same shall be furnished within a reasonable time following such request.

27.5.4. Right to Cover Cost. Developer (until the Majority Election Date) and any Listed Mortgagee shall have the right, but not the obligation, jointly or singularly, and at their sole option, to pay any of the Assessments which are in default and which may or have become a charge against any Unit. Further, Developer (until the Majority Election Date) and any Listed Mortgagees shall have the right, but not the obligation, jointly or singularly, and at their sole option, to pay insurance premiums or fidelity bond premiums or any New Total Tax on behalf of the Association where, in regard to insurance premiums, the premiums are overdue and where lapses in policies may or have occurred or, in regard to New Total Taxes, where such tax is in default and which may or has become a charge against the Condominium Property. Developer and any Listed Mortgagees paying insurance premiums or any New Total Tax on behalf of the Association as set forth above shall be entitled to immediate reimbursement from the Association plus any costs of collection, including, but not limited to, Legal Fees.

#### 27.6. Developer Approval of Association Actions

Notwithstanding anything in this Declaration to the contrary, while Developer holds Units for sale or lease in the ordinary course of business, none of the following actions may be taken without approval in writing by Developer:

- (i) Assessment of Developer as a Unit Owner for capital improvements; and
- (ii) Any action by the Association that would be detrimental to the sale or leasing of Units by Developer.

The determination as to what actions would be detrimental or what constitutes capital improvements shall be in the sole discretion of Developer; provided, however, that an increase in assessments for Common Expenses without discrimination against Developer shall not be deemed to be detrimental to the sale or lease of Units.

#### 27.7. Notices

Any notice or other communication required or permitted to be given or delivered hereunder shall be deemed properly given and delivered upon the mailing thereof by United States mail, postage prepaid, to: (i) any Unit Owner, at the address of the person whose name appears as the Unit Owner on the records of the Association at the time of such mailing and, in the absence of any specific address, at the address of the Unit owned by such Unit Owner; (ii) the Association, certified mail, return receipt requested, at 1400 N.W. 107th Avenue, 5th Floor, Miami, Florida 33172, or such other address as the Association shall hereinafter notify Developer and the Unit Owners of in writing; and (iii) Developer, certified mail, return receipt requested, at 1400 N.W. 107th Avenue, FTL:1484301:6

5th Floor, Miami, Florida or such other address or addresses as Developer shall hereafter notify the Association of in writing, any such notice to the Association of a change in Developer's address being deemed notice to the Unit Owners (upon request of a Unit Owner, the Association shall furnish to such Unit Owner the then current address for Developer as reflected by the Association records).

#### 27.8. No Time-Share Estates

Pursuant to the requirements of Section 718.403(2)(f) of the Act, it is hereby specified that no time share estates will be created with respect to Units.

#### 27.9. Assignment of Developer's Rights

Developer shall have the right to assign, in whole or in part, any of its rights granted under this Declaration. No Unit Owner or other purchaser of a portion of the Land shall, solely by the purchase, be deemed a successor or assignee of any rights granted to Developer under this Declaration, unless such purchaser is specifically designated as such in an instrument executed by Developer.

#### 27.10. Lease

A lessee of a Unit(s) shall by execution of a lease, be bound by all applicable terms and provisions of this Declaration and be deemed to, accept his/her/its leasehold estate subject to this Declaration, agree to conform and comply with all provisions contained herein and allow the lessor or the Association to fulfill all obligations imposed pursuant thereto. Each Unit Owner, by such Unit Owner's acceptance of a deed to a Unit thereby assigns to the Association the right to collect rent from any lessee of a Unit(s), in the event such Unit Owner is delinquent in paying such Unit Owner's Common Expenses or special charges to the Association. After collecting any such rent, the Association may deduct any late Assessments, Interest and Legal Fees or special charges and remit any balance to the Unit Owner. All leases must be in writing, and copies of the lease agreement and any amendments thereto shall be delivered to the Association upon execution.

#### 27.11. Security

The Association may, but shall not be obligated to, maintain or support certain activities within the Condominium designed to make the Condominium safer than it otherwise might be. Developer shall not in any way or manner be held liable or responsible for any violation of this Declaration by any person other than Developer. Additionally, NEITHER DEVELOPER NOR THE ASSOCIATION MAKE ANY REPRESENTATIONS WHATSOEVER AS TO THE SECURITY OF THE PREMISES OR THE EFFECTIVENESS OF ANY MONITORING SYSTEM OR SECURITY SERVICE. ALL UNIT OWNERS AGREE TO HOLD DEVELOPER AND THE ASSOCIATION HARMLESS FROM ANY LOSS OR CLAIM ARISING FROM THE OCCURRENCE OF ANY CRIME OR OTHER ACT. NEITHER THE ASSOCIATION, DEVELOPER, NOR ANY SUCCESSOR DEVELOPER SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE CONDOMINIUM. NEITHER THE ASSOCIATION, DEVELOPER, NOR ANY SUCCESSOR DEVELOPER SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY

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MEASURES UNDERTAKEN, IF ANY. ALL UNIT OWNERS AND OCCUPANTS OF ANY UNIT AND TENANTS, GUESTS AND INVITEES OF A UNIT OWNER, ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD, DEVELOPER, OR ANY SUCCESSOR DEVELOPER DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM, IF ANY DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY DEVELOPER, OR THE ASSOCIATION MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH UNIT OWNER AND OCCUPANT OF ANY UNIT AND EACH TENANT, GUEST AND INVITEE OF A UNIT OWNER, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION AND ITS BOARD, DEVELOPER OR ANY SUCCESSOR DEVELOPER ARE NOT INSURERS AND THAT EACH UNIT OWNER AND OCCUPANT OF ANY UNIT AND EACH TENANT, GUEST AND INVITEE OF A UNIT OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION AND ITS BOARD, DEVELOPER OR ANY SUCCESSOR DEVELOPER HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY UNIT OWNER OR OCCUPANT OF ANY UNIT, OR ANY TENANT, GUEST OR INVITEE OF A UNIT OWNER RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED, IF ANY, OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE CONDOMINIUM, IF ANY.

## 28. PROVISIONS RELATING TO TERMINATION

The Condominium may be terminated in the following manner:

### 28.1 Agreement

The Condominium may be terminated at any time by written agreement of the Unit Owners of at least three fourths (3/4) of the Voting Interests and Institutional Mortgagee with the highest principal amount of indebtedness.

### 28.2. Certificate of Termination; Termination Trustee

The termination of the Condominium shall be evidenced by a Certificate of Termination, executed by the President or Vice President of the Association with the formalities of a deed, and certifying to the facts effecting the termination. The certificate also shall include the name and address of a Florida financial institution with trust powers, or a licensed Florida attorney, designated by the Association as Termination Trustee. The certificate shall be signed by the Trustee indicating willingness to serve in that capacity. Termination of the Condominium occurs when a Certificate of Termination meeting the requirements of this Section is recorded in the Public Records of the County. The recording of the Certificate of Termination automatically divests the Association and all Unit Owners of legal title and vests legal title to all real and personal property formerly the Condominium Property in the Termination Trustee named in the Certificate of Termination without

need for further conveyance. Beneficial title to the Condominium Property is owned by the former Unit Owners as tenants in common in the same undivided shares each Unit Owner previously owned in the Common Elements. On termination, each lien encumbering a Unit shall be transferred automatically to the equitable share in the property attributable to the Unit encumbered by the lien with the same priority. Termination incident to a merger of the Condominium with another shall not require the designation of a Termination Trustee.

### 28.3. Wind-up of Association Affairs

The termination of the Condominium does not, by itself, terminate the Association. The former Unit Owners and their successors and assigns shall continue to be members of the Association, and the members of the Board of Directors and the officers of the Association shall continue to have the powers granted in this Declaration, the Articles of Incorporation, and Bylaws for the purpose of winding up the affairs of the Association in accordance with this Section.

## 29. PROTECTIONS FOR EXISTING TENANTS

Notwithstanding anything to the contrary contained herein, to the extent of a conflict between an Existing Lease (hereinafter defined) and this Declaration, it is hereby recognized that the rights of tenants under leases relating to all or any portion of a Unit or the Condominium Property, which are in existence at the time of the creation of the Condominium ("Existing Lease" or "Existing Leases," as applicable), are superior to the rights herein contained for the term of the Existing Lease (including during any renewal period, if applicable). It is hereby further recognized that (a) in the event of a conflict between the rules and regulations of the Association, if any, and any provision of any Existing Lease, the provisions of the Existing Lease shall control, (b) in the event of a foreclosure of a lien placed upon a Unit, which is the subject of an Existing Lease, by the Association, such foreclosure shall not terminate the Existing Lease, which Existing Lease shall remain in effect, (c) any obligation of a tenant under an Existing Lease to pay common area maintenance charges ("CAM") shall continue notwithstanding the Unit's obligation to pay Assessments for Common Expenses; provided, however, that the allocation of Common Expenses to the Unit which is subject to an Existing Lease shall be given a presumption that such allocation is the appropriate allocation for purposes of calculating the tenant's obligation to pay CAM, (d) the Association shall recognize tenant's rights under an Existing Lease with respect to the obligations of the landlord listed therein to insure the Common Elements of the Condominium and any obligation to rebuild, (e) in the event an Existing Lease permits the tenant thereunder to perform any alterations to the Unit or Common Elements, the provisions of the Existing Lease shall control; provided, however, that the Association shall have the same rights as the landlord under such Existing Lease, and (f) an Existing Lease shall not be affected by the termination of the Condominium nor any amendment to this Declaration.

In furtherance of the foregoing it is specifically recognized that (i) a Unit Owner who becomes a landlord under an Existing Lease and the tenant thereunder shall each have the right to obtain the necessary services from the Association to which the tenant is entitled under the Existing Lease or the Unit Owner is entitled under this Declaration, (ii) this Declaration is subject to the rights of the tenants under Existing Leases and the Association shall operate the Condominium Property so as not to diminish any rights or increase any obligations of the tenant thereunder, and (iii) in the

FTL:1484301:6

event the landlord under an Existing Lease is required to give its consent at the request of any tenant thereunder, then the Association, if required to consent pursuant to this Declaration, shall use the same standard in considering the granting or withholding of such consent as the landlord is required to exercise pursuant to the Existing Lease if such standard is so prescribed.

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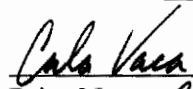
IN WITNESS WHEREOF, Developer has caused these presents to be duly executed this 7<sup>th</sup> day of June, 2006.

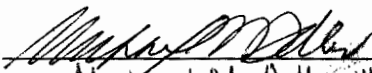
WITNESSES:

ORLANDO SUNPORT FLEXXSPACE, LTD., a  
Florida limited partnership

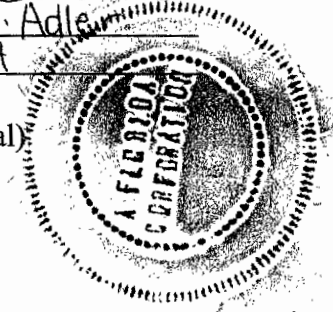
By: Orlando Sunport FlexxSpace 2 LLC, a Florida  
limited liability company, as General Partner

By: Adler Newco GP 2, Inc., a Florida  
corporation, as Managing Member

  
Print Name: Daisy King  
  
Print Name: Carla Vaca

By:   
Name: Michael M. Adler  
Title: President


(Corporate Seal)



STATE OF FLORIDA       )  
                                      )  
COUNTY OF MIAMI-DADE)   SS:

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, the foregoing instrument was acknowledged before me by Michael M. Adler the President of ADLER NEWCO GP 2, INC., a Florida corporation, as Managing Member of ORLANDO SUNPORT FLEXXSPACE 2 LLC, a Florida limited liability company and General Partner of ORLANDO SUNPORT FLEXXSPACE, LTD., a Florida limited partnership, on behalf of the company, who is personally known to me to be the officer described in and who executed the foregoing instrument.

WITNESS my hand and official seal in the County and State aforesaid this 7<sup>th</sup> day of June 2006.

  
Notary Public, State of Florida  
Daisy King

My Commission Expires:



FTL:1484301:6

EXHIBIT A  
TO  
DECLARATION OF CONDOMINIUM  
OF  
SUNPORT COMMERCE CENTER CONDOMINIUM

Legal Description

PARCEL 1:

Begin at a point 75.0 feet South of the Northwest corner of Section 36, Township 23 South, Range 29 East, Orange County, Florida; thence North 89 degrees 30'00" East parallel to and 75.0 feet South as measured at right angles, to the North line of said Section 36, a distance of 845.03 feet to a point; thence South a distance of 638.90 feet to a point; thence South 89 degrees 57'35" West a distance of 845.00 feet to a point on the West line of Section 36; thence North a distance of 632.12 feet to the Point of Beginning.

PARCEL 2:

together with a non-exclusive easement over the North 60 feet of Lot 1, SUNPORT TECHNOLOGICAL CENTER, according to the plat thereof as recorded in Plat Book 15, Pages 149 and 150, of the Public Records of Orange County, Florida, granted in Driveway Easement Agreement recorded in Official Records Book 5872, Page 4493, of the Public Records of Orange County, Florida.

# SUNPORT COMMERCE CENTER CONDOMINIUM

SECTION 36, TOWNSHIP 23 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA

EXHIBIT B

SHEET 1 OF 10

## DESCRIPTION:

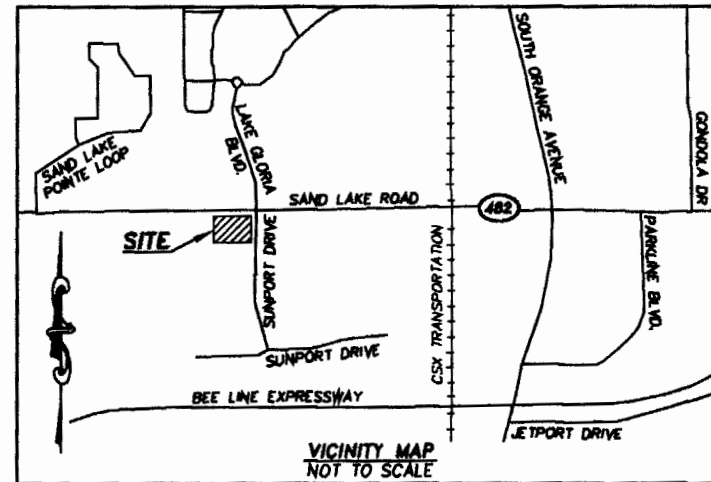
### PARCEL 1:

BEGIN AT A POINT 75.0 FEET SOUTH OF THE NORTHWEST CORNER OF SECTION 36, TOWNSHIP 23 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 89 DEGREES 30'00" EAST PARALLEL TO AND 75.0 FEET SOUTH AS MEASURED AT RIGHT ANGLES, TO THE NORTH LINE OF SAID SECTION 36, A DISTANCE OF 845.03 FEET TO A POINT; THENCE SOUTH A DISTANCE OF 638.90 FEET TO A POINT; THENCE SOUTH 89 DEGREES 57'36" WEST A DISTANCE OF 845.00 FEET TO A POINT ON THE WEST LINE OF SECTION 36; THENCE NORTH A DISTANCE OF 632.12 FEET TO THE POINT OF BEGINNING.

### PARCEL 2:

TOGETHER WITH A NON-EXCLUSIVE EASEMENT OVER THE NORTH 60 FEET OF LOT 1, SUNPORT TECHNOLOGICAL CENTER, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 15, PAGES 149 AND 150, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, TO BE GRANTED IN DRIVEWAY EASEMENT AGREEMENT RECORDED IN OFFICIAL RECORDS BOOK 5872, PAGE 4493, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

CONTAINING 12.328 ACRES, OR 537,005.08 SQUARE FEET, MORE OR LESS.



## CERTIFICATE:

THE UNDERSIGNED, BEING A LICENSED PROFESSIONAL SURVEYOR AND MAPPER, AUTHORIZED TO PRACTICE IN THE STATE OF FLORIDA, DOES HEREBY CERTIFY THAT SHEETS ONE THROUGH TEN OF THIS EXHIBIT OF SUNPORT COMMERCE CENTER, A CONDOMINIUM ARE A TRUE AND ACCURATE SURVEY AND PLAT OF THE LAND AND IMPROVEMENTS DESCRIBED THEREON, AND THAT SHEETS ONE THROUGH TEN ARE AN ACCURATE PLAT AND SURVEY OF THE COMMON ELEMENTS AND UNITS OF SUNPORT COMMERCE CENTER, A CONDOMINIUM, WHICH I HAVE SURVEYED, AND I FURTHER CERTIFY THAT THE CONSTRUCTION OF THE IMPROVEMENTS IS SUBSTANTIALLY COMPLETE, SO THAT THIS MATERIAL, TOGETHER WITH THE PROVISIONS OF THE DECLARATION TO WHICH THIS EXHIBIT IS ATTACHED, IS AN ACCURATE REPRESENTATION OF THE LOCATIONS AND DIMENSIONS OF THE IMPROVEMENTS, AND THAT THE IDENTIFICATION, LOCATION, AND DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT CAN BE DETERMINED FROM THESE MATERIALS.

DATED: 7/24/00

SEARS SURVEYING COMPANY  
LICENSED BUSINESS 0000000000

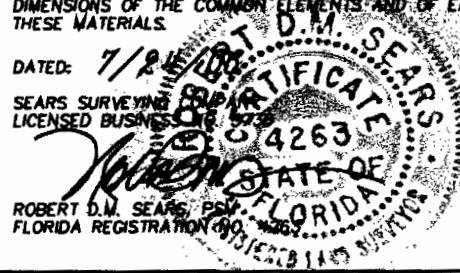
ROBERT D.M. SEARS, PSY  
FLORIDA REGISTRATION 0000000000



1160 Solano Avenue,

Winter Park, Florida 32789

(407) 945-1332

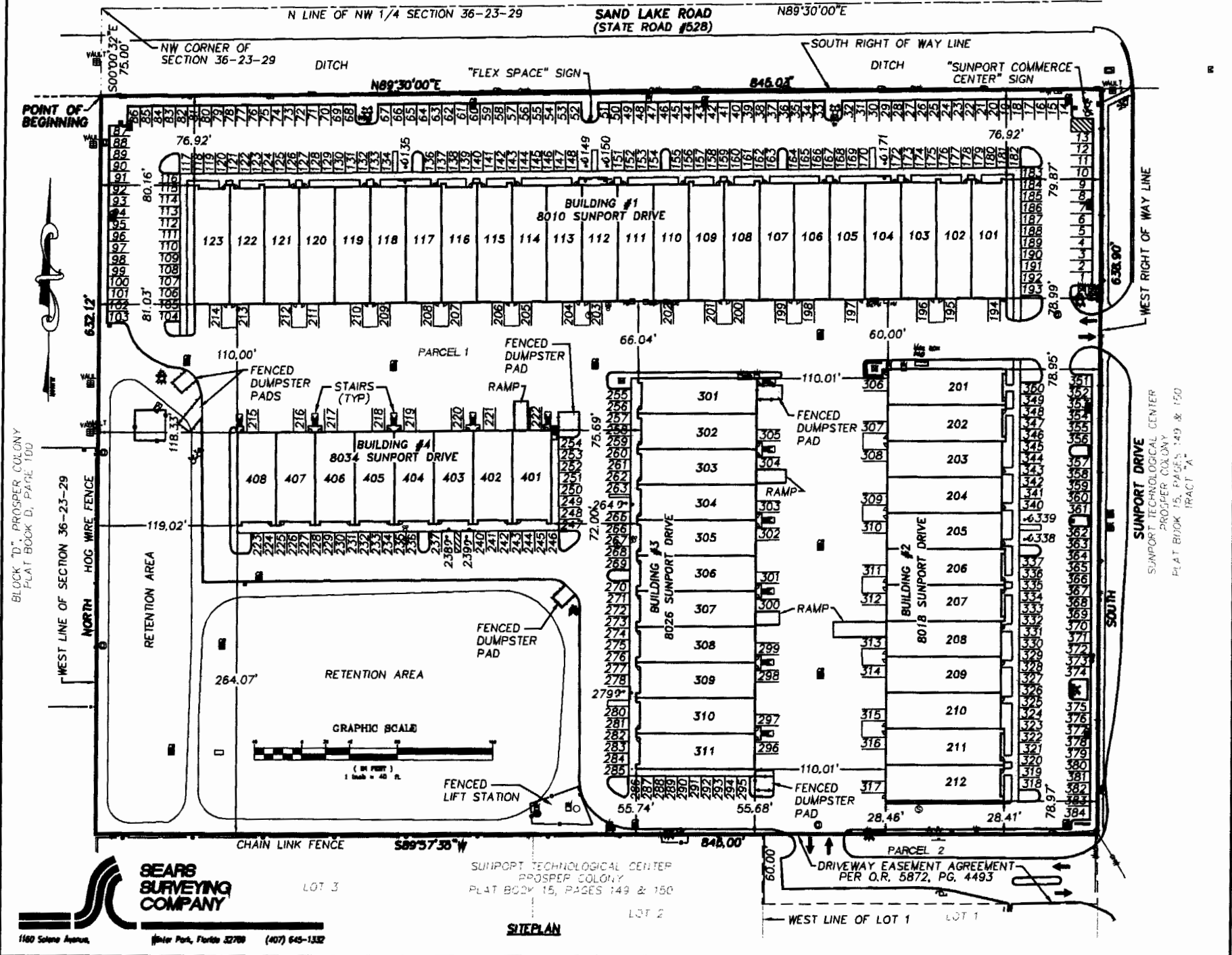


# SUNPORT COMMERCE CENTER CONDOMINIUM

SECTION 36, TOWNSHIP 23 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA

EXHIBIT B

SHEET 2 OF 10



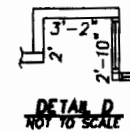
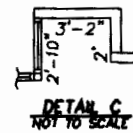
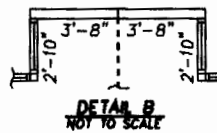
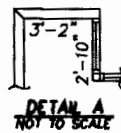
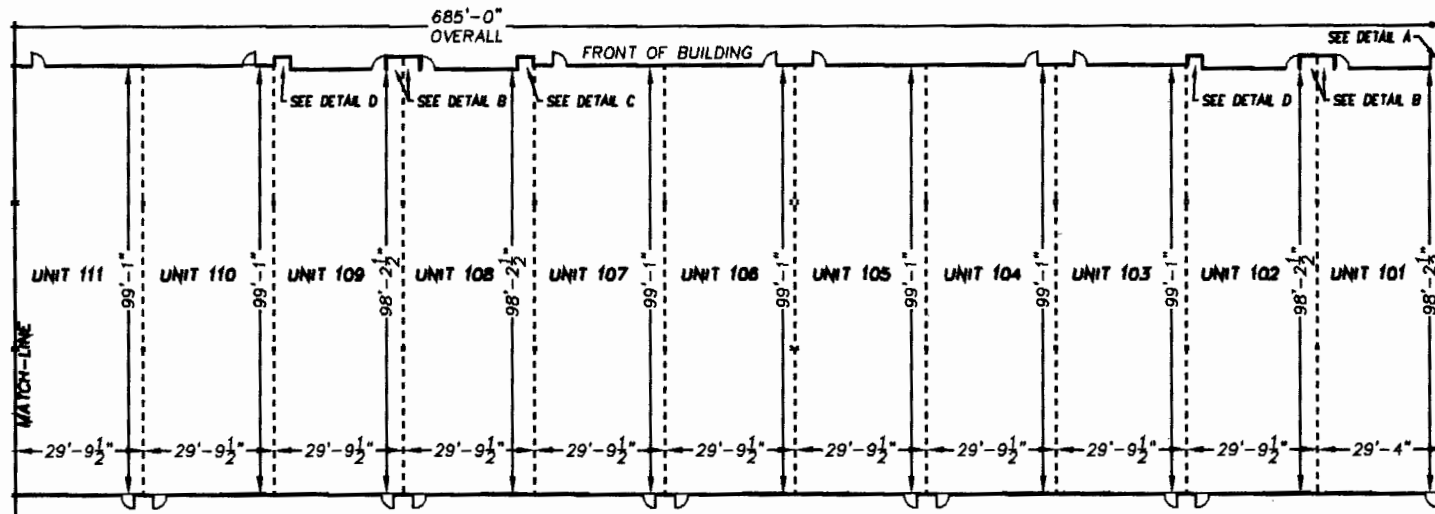
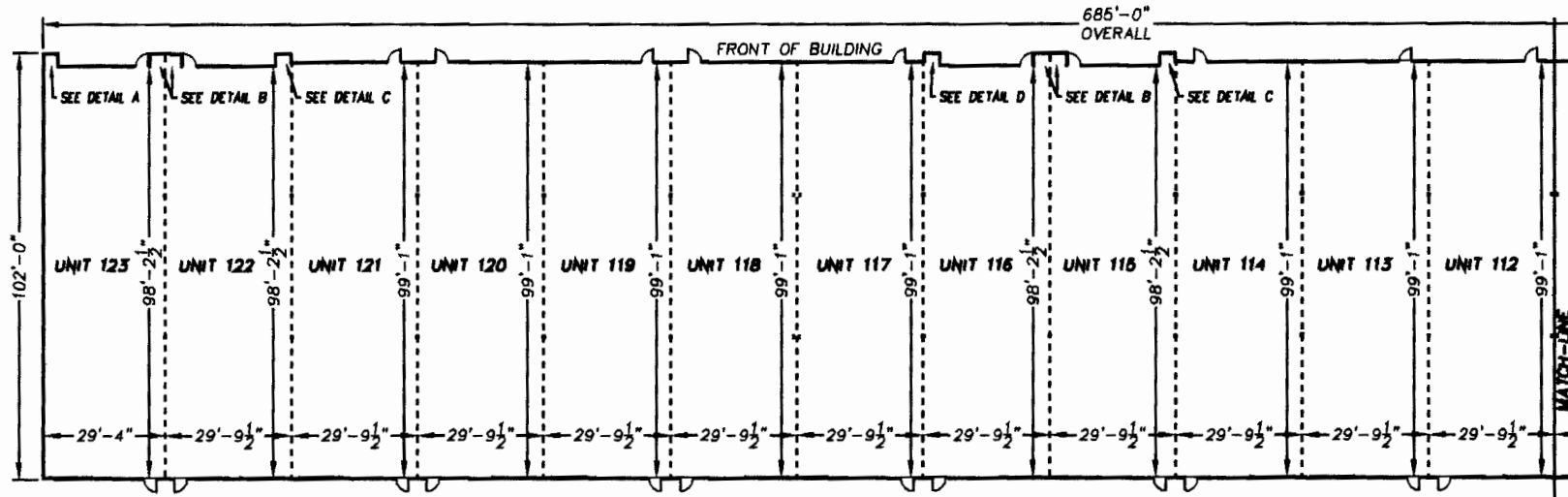


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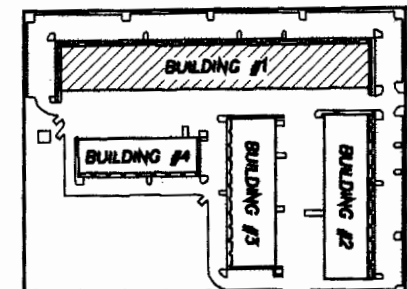
SECTION 36, TOWNSHIP 23 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA

EXHIBIT B

SHEET 3 OF 10



BUILDING #1  
8010 SUNPORT DRIVE  
SCALE: 1/16"=1'-0"



1100 Solano Avenue,

Winter Park, Florida 32789

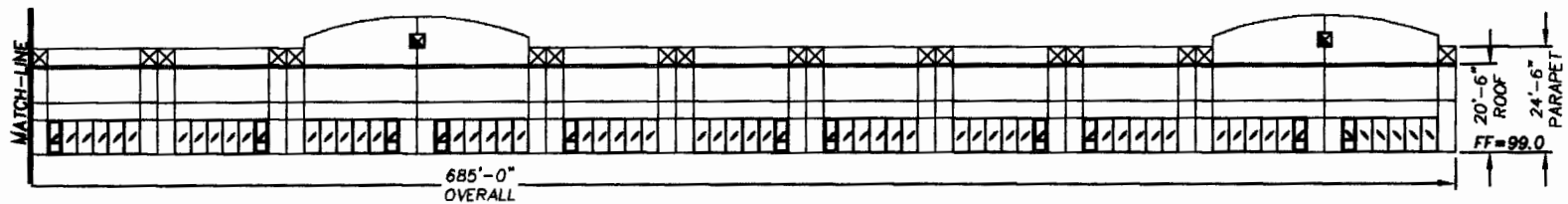
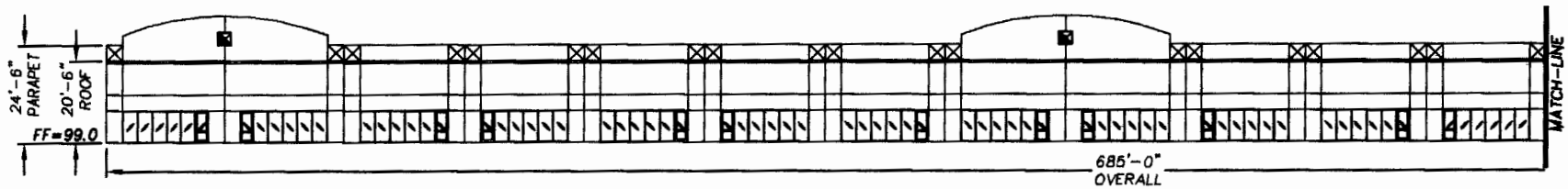
(407) 845-1332

# SUNPORT COMMERCE CENTER CONDOMINIUM

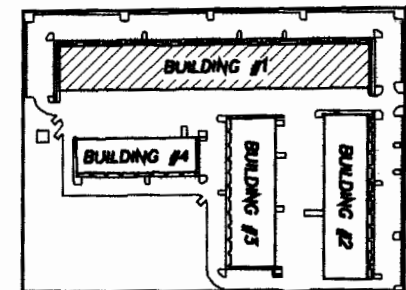
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EXHIBIT B

SHEET 4 OF 10



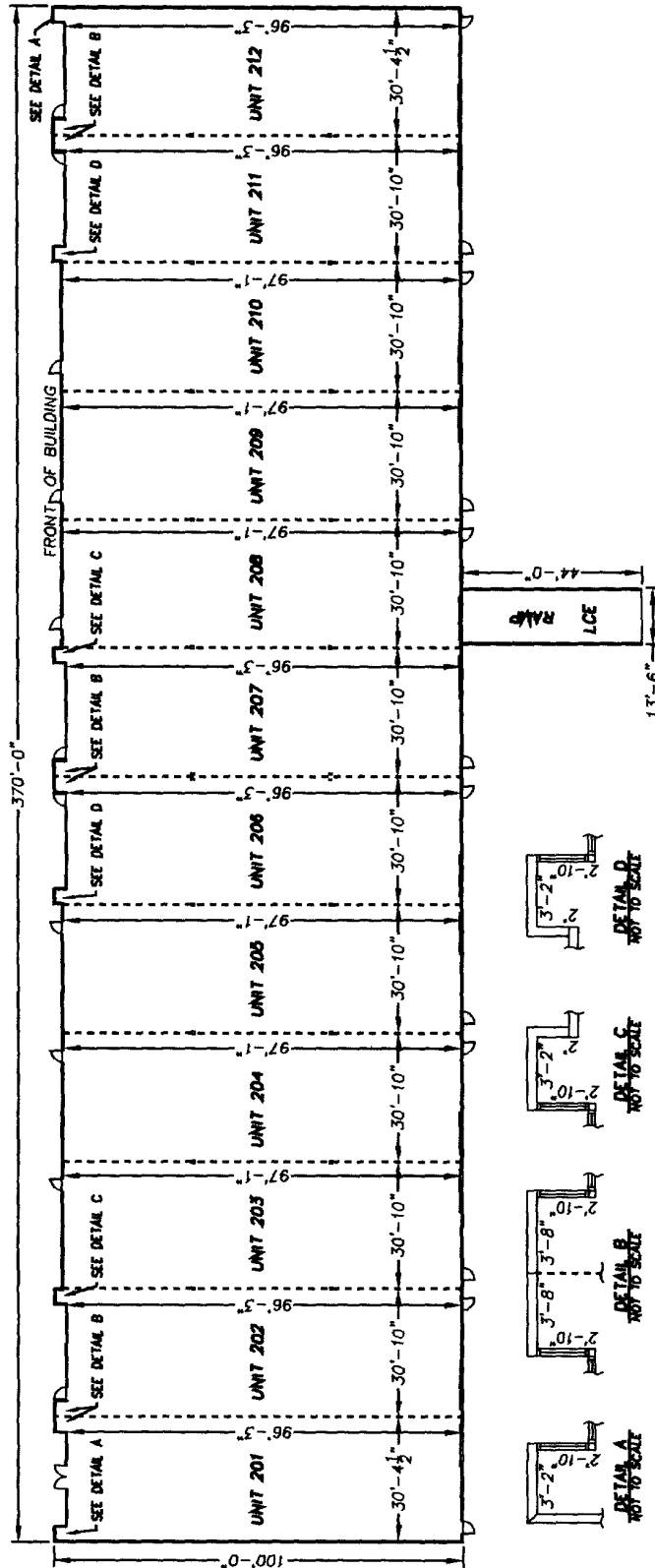
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FRONT ELEVATION  
8010 SUNPORT DRIVE  
SCALE: 1/16"=1'-0"



KEYMAP  
NOT TO SCALE

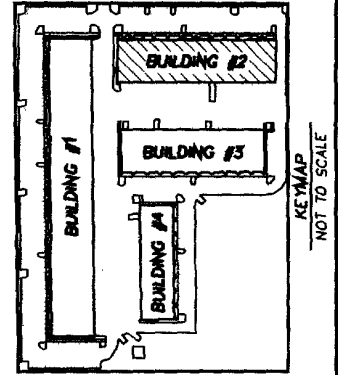
**SUNPORT COMMERCE CENTER CONDOMINIUM**  
SECTION 36, TOWNSHIP 23 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA

**SHEET 6 OF 10**



BUILDING #2  
2018 SUNPORT DRIVE  
SCALE: 1/16"=1'-0"

LCE=LIMITED COMMON ELEMENT



**KEYMAP**  
**NOT TO SCALE**



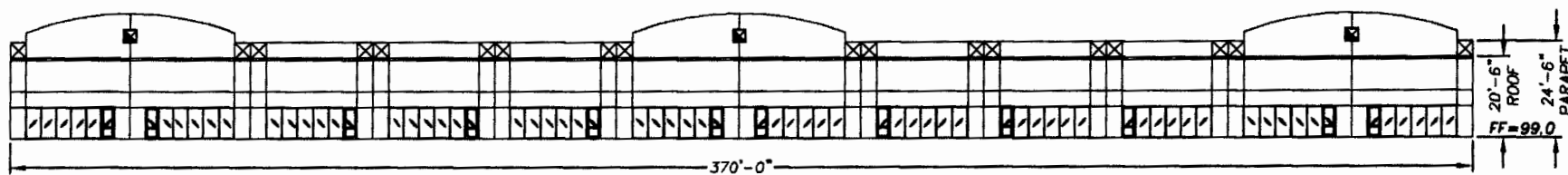
Winter Park, Florida 32789 (407) 645-1332

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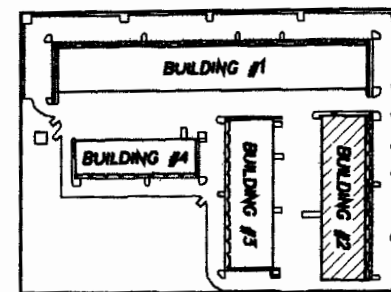
SECTION 36, TOWNSHIP 23 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA

EXHIBIT B

SHEET 6 OF 10



BUILDING #2  
FRONT ELEVATION  
8018 SUNPORT DRIVE  
SCALE: 1/16"=1'-0"



KEYMAP  
NOT TO SCALE



1180 Solano Avenue,

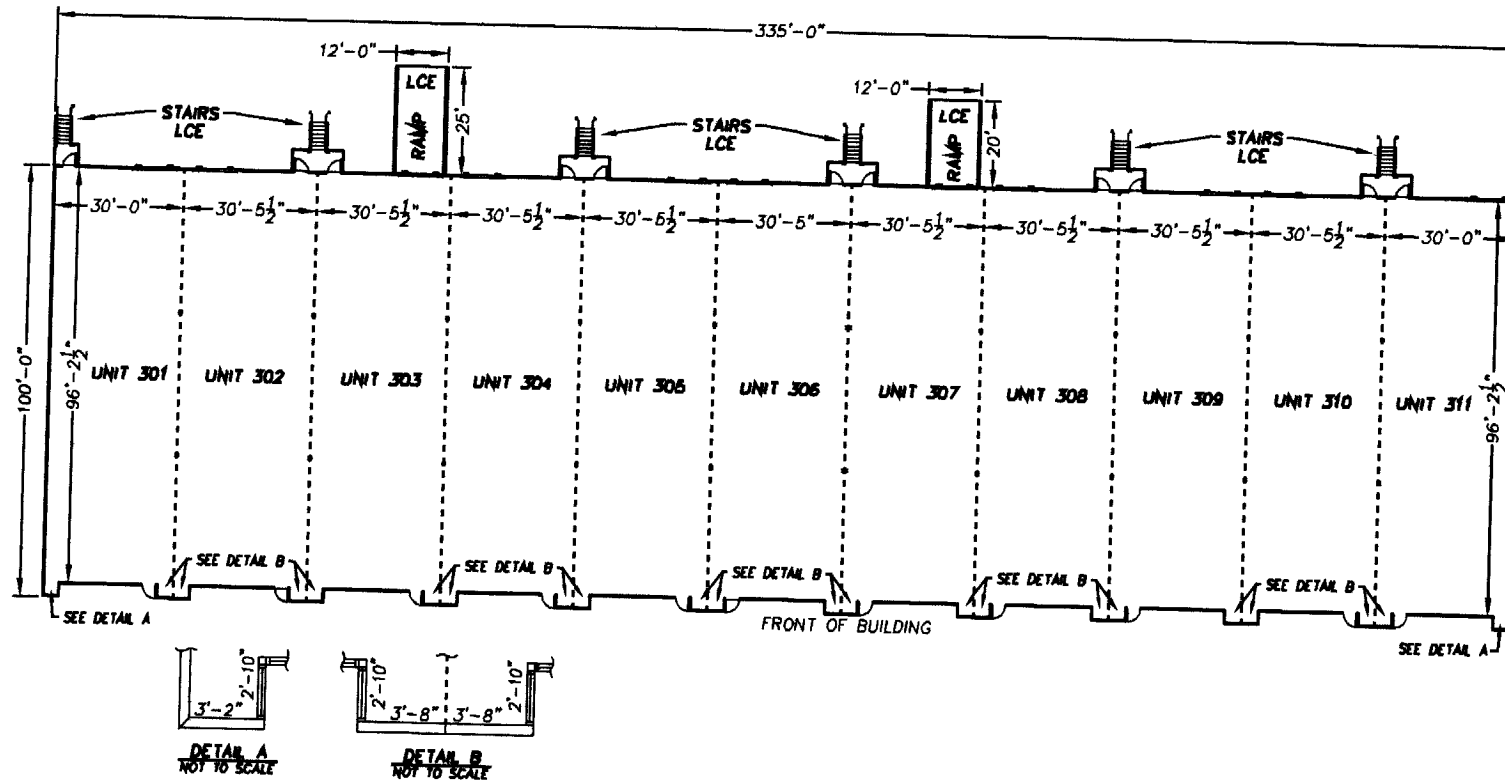
Winter Park, Florida 32789

(407) 645-1332

**SUNPORT COMMERCE CENTER CONDOMINIUM**  
SECTION 36, TOWNSHIP 23 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA

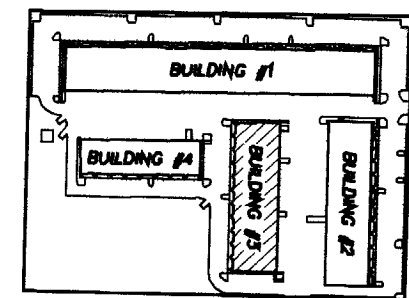
**EXHIBIT B**

SHEET 7 OF 10



BUILDING #3  
8026 SUNPORT DRIVE  
SCALE: 1/16" = 1'-0"

LCE=LIMITED COMMON ELEMENT



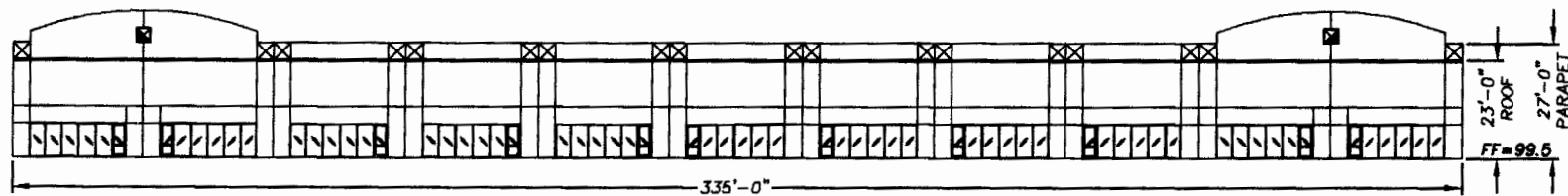
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# SUNPORT COMMERCE CENTER CONDOMINIUM

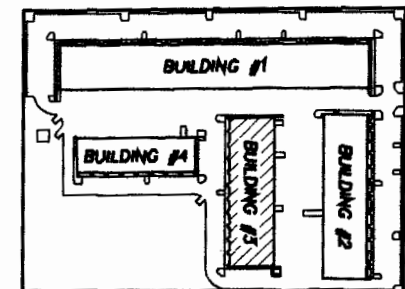
SECTION 36, TOWNSHIP 23 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA

EXHIBIT B

SHEET 8 OF 10



BUILDING #3  
FRONT ELEVATION  
8026 SUNPORT DRIVE  
SCALE: 1/16"=1'-0"



KEYMAP  
NOT TO SCALE



1180 Solano Avenue,

Winter Park, Florida 32789

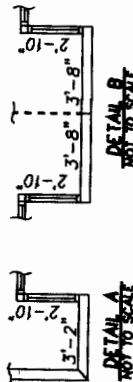
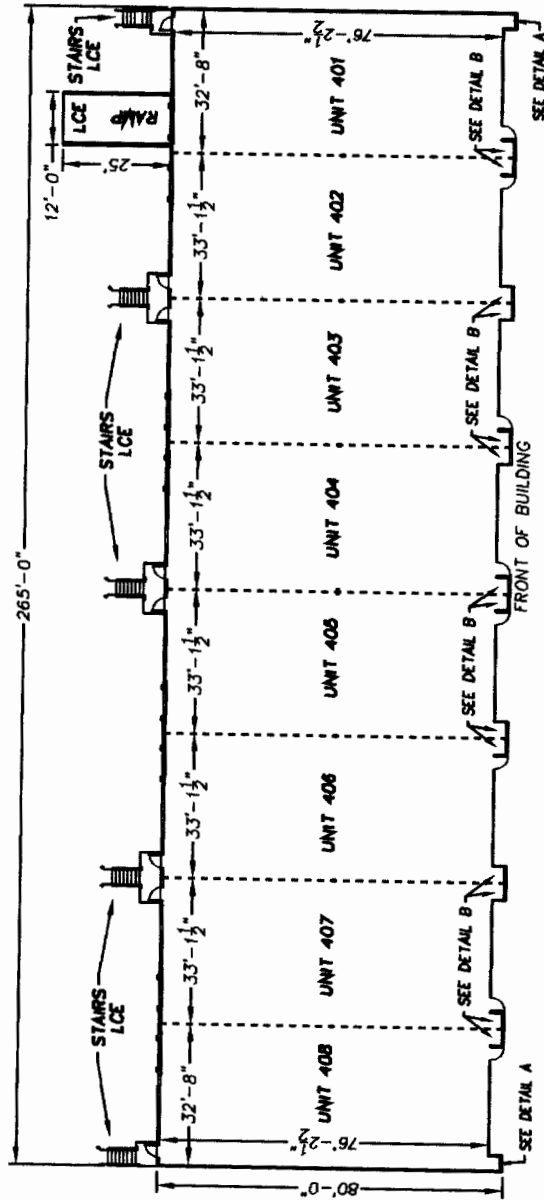
(407) 845-1332

# SUNPORT COMMERCE CENTER CONDOMINIUM

SECTION 36, TOWNSHIP 23 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA

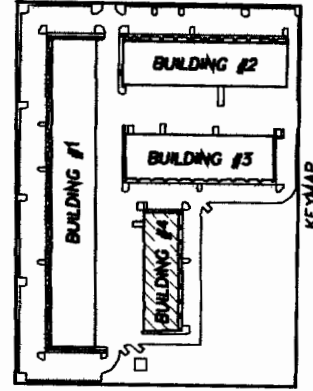
EXHIBIT B

SHEET 9 OF 10



BUILDING #1  
8034 SUNPORT DRIVE  
SCALE: 1/16"=1'-0"

LCE=LIMITED COMMON ELEMENT

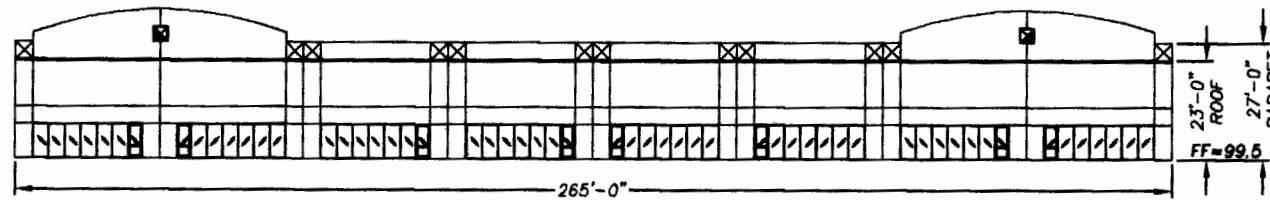




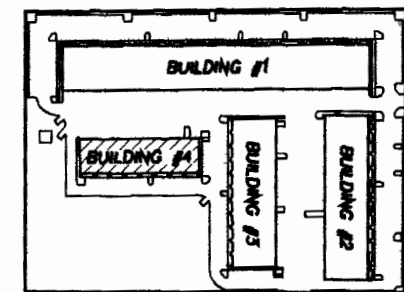
**SUNPORT COMMERCE CENTER CONDOMINIUM**  
SECTION 36, TOWNSHIP 23 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA

**EXHIBIT B**

SHEET 10 OF 10



**BUILDING #4**  
**FRONT ELEVATION**  
**8034 SUNPORT DRIVE**  
**SCALE: 1/16"=1'-0"**



**KEYMAP**  
**NOT TO SCALE**



**SEARS  
SURVEYING  
COMPANY**


1180 Solano Avenue,

Winter Park, Florida 32789

(407) 845-1332

# State of Florida

EXHIBIT C



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of SUNPORT COMMERCE CENTER CONDOMINIUM ASSOCIATION, INC., a Florida corporation, filed on April 6, 2006, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H06000091096. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below

The document number of this corporation is N06000003863.

Authentication Code: 006A00023685-040706-N06000003863-1/1

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Seventh day of April, 2006



*Sue M. Cobb*  
Sue M. Cobb  
Secretary of State

**ARTICLES OF INCORPORATION  
OF  
SUNPORT COMMERCE CENTER CONDOMINIUM ASSOCIATION, INC.  
(A Florida Not for Profit Corporation)**

In order to form a not for profit corporation, under and in accordance with Chapter 617, Florida Statutes (the same being the "Florida Not for Profit Corporation Act"), the undersigned, hereby incorporates this not for profit corporation, for the purposes and with the powers hereinafter set forth and to that end, does, by these Articles (hereinafter defined), certify as follows:

The terms contained in these Articles are defined in Chapter 718, Florida Statutes (the same being the "Condominium Act" or the "Act"), as amended through the date of recording the Declaration (hereinafter defined) amongst the Public Records (hereinafter defined), shall have the meaning of such terms set forth in the Act, and, for clarification, the following terms will have the following meanings:

- A. "Articles" means these Articles of Incorporation of the Association.
- B. "Assessments" means the share of funds required for the payment of "Annual Assessments" and "Special Assessments" (as such terms are defined in the Declaration), which from time to time are assessed against a Unit Owner.
- C. "Association" means Sunport Commerce Center Condominium Association, Inc., a Florida corporation not for profit, responsible for the Condominium.
- D. "Board" means the Board of Directors of the Association.
- E. "Bylaws" means the Bylaws of the Association.
- F. "Common Elements" means the portion of the Condominium Property not included in the Units.
- G. "Common Expenses" means expenses for which the Unit Owners are liable to the Association as set forth in various sections of the Act and as described in the Condominium Documents and include:
  - (i) expenses incurred in connection with operation, maintenance, repair or replacement of the "Common Elements" (as defined in the Declaration), costs of carrying out the powers and duties of the Association with respect to the Condominium Property, cost of fire and extended coverage insurance on the Condominium Property; and

- (ii) any other expenses designated as Common Expenses from time to time by the Board.

H. "Common Surplus" means the excess of receipts of the Association collected on behalf of the Condominium (including, but not limited to, assessments, rents, profits and revenues, on account of the Common Elements) over the Common Expenses.

I. "Condominium" means the name given to the commercial condominium development named "Sunport Commerce Center Condominium," which contains four (4) one-story office/warehouse buildings ("Buildings") which contain a total of fifty-four (54) Units, and other Common Elements.

J. "Condominium Documents" means in the aggregate the Declaration, these Articles, the Bylaws, any rules or regulations promulgated by the Association and all of the instruments and documents referred to therein and executed in connection with the Condominium.

K. "Condominium Property" means the real property submitted to condominium ownership pursuant to the Declaration and all improvements thereon, subject to any and all easements associated therewith, including, but not limited to, the Units and Common Elements and all easements intended for use in connection with the Condominium, all as more particularly described in the Declaration.

L. "County" means Orange County, Florida.

M. "Declaration" means the Declaration of Condominium by which Sunport Commerce Center Condominium is submitted by Developer to the condominium form of ownership in accordance with the Act.

N. "Developer" means Orlando Sunport Flexxspace, Ltd., a Florida limited partnership, its grantees, successors and assigns. A Unit Owner shall not, solely by the purchase of a Unit, be deemed a successor or assign of Developer or of the rights of Developer under the Condominium Documents unless such Unit Owner is specifically so designated as a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Developer.

O. "Director" means a member of the Board.

P. "Member" means a member of the Association.

Q. "Public Records" means the Public Records of the County.

R. "Unit" means "unit" as described in the Act and is that portion of the Condominium Property which is subject to exclusive ownership.

S. "Unit Owner" means "unit owner" as defined in the Act and is the owner of a Unit.

T. "Voting Certificate" means "voting certificate" as defined in the Act and is the document which designates one (1) of the record title owners, or the corporate, partnership or entity representative who is authorized to vote on behalf of an Unit owned by more than one (1) owner or by any entity.

U. "Voting Interests" means "voting interests" as defined in the Act and are the voting rights distributed to Members pursuant to the Declaration.

## ARTICLE I NAME, PRINCIPAL AND MAILING ADDRESS

The name of this Association shall be SUNPORT COMMERCE CENTER CONDOMINIUM ASSOCIATION, INC., whose principal and mailing address is 1400 N.W. 107<sup>th</sup> Avenue, 5<sup>th</sup> Floor, Miami, Florida 33172.

## ARTICLE II PLAN OF DEVELOPMENT AND PURPOSE OF ASSOCIATION

A. Developer intends to establish the Condominium on existing improved property in the City of Orlando by converting such existing improvements to the condominium form of ownership.

B. 1. The Association shall be the condominium association responsible for the operation of the Condominium subject to the terms and restrictions of the Condominium Documents. Each Unit Owner shall be a Member of the Association as provided in these Articles.

2. The purpose for which this Association is organized is to maintain, operate and manage and otherwise deal with the Condominium and certain of the improvements located therein now or in the future, all in accordance with the plan set forth in the Condominium Documents and all other lawful purposes.

## ARTICLE III POWERS

The Association shall have the following powers which shall be governed by the following provisions:

A. The Association shall have all of the common law and statutory powers of a corporation not for profit, which are not in conflict with the terms of the Condominium Documents or the Act.

B. The Association shall have all of the powers to be granted to the Association in the Condominium Documents. All provisions of the Declaration and Bylaws which grant powers to the Association are incorporated into these Articles, including, but not limited to, the operation,

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maintenance, management, repair and replacement of the Condominium Property.

C. The Association shall have all of the powers of a condominium association under the Act and shall have all of the powers reasonably necessary to implement the purposes of the Association including, but not limited to, the following:

1. To make, establish and enforce reasonable rules and regulations governing the use of the Condominium Property (including the Units and the Common Elements);
2. To make, levy, collect and enforce Assessments and special charges and any other charges and/or fees as provided in the Condominium Documents against Unit Owners, in order to provide funds to pay for the expenses of the Association, the maintenance, operation and management of the Condominium and the payment of Common Expenses and other expenses in the manner provided in the Condominium Documents and the Act and to use and expend the proceeds of such Assessments in the exercise of the powers and duties of the Association;
3. To maintain, repair, replace and operate the Condominium Property in accordance with the Declaration and the Act;
4. To reconstruct improvements on the Condominium Property in the event of casualty or other loss;
5. To enforce by legal means the provisions of the Condominium Documents and the Act;
6. To employ personnel, retain independent contractors and professional personnel, and to enter into service and management contracts to provide for the maintenance, operation, management and administration of the Condominium Property and to enter into any other agreements consistent with the purposes of the Association including, but not limited to, agreements as to the management of the Condominium Property and agreements to acquire possessory or use interests in real property and to provide therein that the expenses of said real property and any improvements thereon, including taxes, insurance, utility expenses, maintenance and repairs, are Common Expenses of the Condominium; and
7. To borrow money and to obtain such financing as is necessary to maintain, repair and replace the Condominium Property in accordance with the Declaration and the Act and, as security for any such loan, to collaterally assign the Association's right to collect and enforce Assessments levied for the purpose of repaying any such loan.

#### ARTICLE IV MEMBERS

The qualification of Members of the Association, the manner of their admission to membership, the manner of the termination of such Membership, and the manner of voting by Members shall be as follows:

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A. Until such time as the property which is intended to comprise the Condominium is submitted to condominium ownership by the recordation of the Declaration, the membership of this Association shall be comprised solely of the members of the "First Board" (as defined in Article IX hereof).

B. Once the property which is intended to comprise the Condominium is submitted to condominium ownership by the recordation of the Declaration, the Unit Owners, which shall mean in the first instance Developer as the owner of all the Units, shall be entitled to exercise all of the rights and privileges of the Members.

C. Except as set forth above, membership in the Association shall be established by the acquisition of ownership of fee title to an Unit as evidenced by the recording of a deed or other instrument of conveyance amongst the Public Records whereupon the membership of the prior Unit Owner shall terminate as to that Unit. Where title to an Unit is acquired from a party other than Developer, the person, persons, corporation or other legal entity thereby acquiring such Unit, shall not be a Member unless and until such acquisition is in compliance with the provisions of the applicable Declaration. New Members shall deliver to the Association a true copy of the deed or other instrument of acquisition of title to the Unit.

D. No Member may assign, hypothecate or transfer in any manner his membership or his or her share in the funds and assets of the Association except as an appurtenance to his Unit.

E. With respect to voting, the following provisions shall apply:

1. Each Unit shall have voting rights in the Association equal to the percentage or fraction of ownership in the Common Elements applicable to such Unit, which voting rights shall be exercised and cast in accordance with the Declaration and the Condominium Documents. In the event there is more than one (1) owner with respect to a Unit as a result of the fee interest in such Unit being held by more than one (1) person or entity, such Unit Owners collectively shall only be entitled to the percentage share vote for each Unit owned in the manner determined by the Declaration.

2. Except as otherwise required by the Condominium Documents or the Act, matters that require a vote shall be determined by a vote of the majority of the Voting Interests in attendance at any meeting having a quorum (as determined in accordance with the Bylaws).

3. The membership shall be entitled to elect the Board as provided in Article IX of these Articles.

4. Notwithstanding any other provisions of these Articles, on matters which require voting by the Members, if the question is one upon which, by express provisions of the Act or the Condominium Documents (provided the express provisions of the Condominium Documents are in accordance with the requirements of the Act), requires a vote of other than a majority vote of a quorum, then such express provision shall govern and control the required vote on the decision of

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such question.

## ARTICLE V TERM

The term for which this Association is to exist shall be perpetual.

## ARTICLE VI INCORPORATOR

The name and address of the Incorporator of these Articles are as follows: Linda K. Adler, 1400 N.W. 107<sup>th</sup> Avenue, 5<sup>th</sup> Floor, Miami, Florida 33172.

## ARTICLE VII OFFICERS

A. The affairs of the Association shall be managed by a President, one (1) or several Vice Presidents, a Secretary and a Treasurer and, if elected by the Board, an Assistant Secretary and an Assistant Treasurer, which officers shall be subject to the directions of the Board. The Board may employ a managing agent and/or such other managerial and supervisory personnel or entities as it deems necessary to administer or assist in the administration of the operation or management of the Association and Developer shall have the right to be reimbursed for expenses incurred by Developer on behalf of the Association in managing the Association.

B. The Board shall elect the President, the Vice President, the Secretary, and the Treasurer, and as many other Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall from time to time determine appropriate. Such officers shall be elected annually by the Board at the first meeting of the Board following the "Annual Members' Meeting" (as described in Section 4.1 of the Bylaws); provided, however, such officers may be removed by such Board and other persons may be elected by the Board as such officers in the manner provided in the Bylaws. The President shall be a Director of the Association, but no other officer need be a Director. The same person may hold two (2) offices, the duties of which are not incompatible; provided, however, the offices of President and Vice President shall not be held by the same person, nor shall the same person hold the office of President who holds the office of Secretary or Assistant Secretary.

## ARTICLE VIII FIRST OFFICERS

The names of the officers who are to serve until the first election of officers by the Board are as follows:

President	Matthew L. Adler
Secretary/ Treasurer	Brett Harris

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**ARTICLE IX  
BOARD OF DIRECTORS**

A. The number of Directors on the first Board of Directors ("First Board"), the "Initial Elected Board" (as hereinafter defined) and all Boards elected prior to the Annual Members' Meeting following the "Developer's Resignation Event" (as hereinafter defined) shall be no less than three (3) nor more than seven (7). The number of Directors elected by the Members subsequent to the Developer's Resignation Event shall be as provided in Paragraph K of this Article IX. Except for Developer-appointed Directors, Directors must be Members, except that if a Unit is owned by an entity and not an individual, such entity may appoint an officer/director on its behalf to be eligible to serve on the Board of Directors.

B. The names and addresses of the persons who are to serve as the First Board are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Brett Harris	1400 N.W 107 <sup>th</sup> Avenue, 5 <sup>th</sup> Floor Miami, Florida 33172
Matthew L. Adler	1400 N.W 107 <sup>th</sup> Avenue, 5 <sup>th</sup> Floor Miami, Florida 33172
Linda K. Adler	1400 N.W 107 <sup>th</sup> Avenue, 5 <sup>th</sup> Floor Miami, Florida 33172

Developer reserves the right to designate successor Directors to serve on the First Board for so long as the First Board is to serve, as hereinafter provided. Developer reserves the right to remove any Director from the First Board and the right to remove any Director designated by Developer in accordance with these Articles.

C. Upon the conveyance by Developer to an Unit Owner other than Developer ("Purchaser Members") of fifteen percent (15%) or more of the Units (as evidenced by the recordation of deeds), Purchaser Members shall be entitled to elect one-third (1/3) of the Board, which election shall take place at the Initial Election Meeting. Developer shall designate the remaining Directors on the Board at the Initial Election Meeting. The Director to be so elected by the Purchaser Members and the remaining Directors to be designated by Developer are hereinafter collectively referred to as the "Initial Elected Board" and shall succeed the First Board upon their election and qualification. Subject to the provisions of Paragraph D below, the Initial Elected Board shall serve until the next Annual Members' Meeting, whereupon, the Directors shall be designated and elected in the same manner as the Initial Elected Board. The Directors shall continue to be so designated and elected at each subsequent Annual Members' Meeting until such time as the Purchaser Members are entitled to elect not less than a majority of the Directors on the Board. Developer reserves the right, until such time as the Purchaser Members are entitled to elect not less than a majority of the Directors on the Board, to designate successor Directors to fill any vacancies

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caused by the resignation or removal of Directors designated by Developer pursuant to this Paragraph C.

D. Purchaser Members are entitled to elect not less than a majority of the Board upon the happening of any of the following events, whichever shall first occur:

1. Purchaser Members other than the Developer are entitled to elect not less than a majority of the Board upon the happening of any of the following, whichever shall first occur (reciting the provisions of Sections 718.301(1)(a) - (e) of the Act, as required by Rule 61B-17.0012, F.A.C.):

a. Three (3) years after fifty percent (50%) of the Units have been conveyed to Purchaser Members; or

b. Three (3) months after ninety percent (90%) of the Units in have been conveyed to Purchaser Members; or

c. When all the Units have been completed, some of them have been conveyed to Purchaser Members, and none of the others are being offered for sale by Developer in the ordinary course of business; or

d. When all of the Units have been conveyed to Purchaser Members and none of the others are being constructed or offered for sale by Developer in the ordinary course of business; or

e. Seven (7) years after recordation of the Declaration, Developer is entitled to elect at least one (1) member of the Board of the Association as long as Developer holds for sale in the ordinary course of business at least five percent (5%) of the Units in the Condominium. Following the time Developer relinquishes control of the Association, Developer may exercise the right to vote any Developer-owned Units in the same manner as any other Unit owner except for purposes of reacquiring control of the Association or selecting a majority of the members of the Board.

2. Notwithstanding the above Paragraph D.1, Developer shall have the right to, at any time, upon written notice to the Association relinquish its right to designate a majority of the Board.

E. The election of not less than a majority of Directors by the Purchaser Members shall occur at a meeting of the membership to be called by the Board for such purpose ("Majority Election Meeting").

F. At the Majority Election Meeting, the Purchaser Members shall elect two (2) Directors and Developer, until the Developer's Resignation Event, shall be entitled to designate one (1) Director. Developer reserves the right, until the Developer's Resignation Event, to name the successor, if any, to any Director it has so designated; provided, however, Developer shall in any

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event be entitled to exercise any right it may have to representation on the Board as granted by law, notwithstanding the occurrence of the Developer's Resignation Event.

G. At the first Annual Members Meeting held after the Majority Election Meeting, a "staggered" term of office of the Board shall be created as follows:

1. a number equal to fifty percent (50%) of the total number of Directors rounded to the nearest or next whole number is the number of Directors whose term of office shall be established at two (2) years and the Directors serving for a two (2) year term will be the Directors receiving the most votes at the meeting; and

2. the remaining Directors' terms of office shall be established at one (1) year.

At each Annual Members Meeting thereafter, as many Directors of the Association shall be elected as there are Directors whose regular term of office expires at such time, and the term of office of the Directors so elected shall be for two (2) years, expiring when their successors are duly elected and qualified.

H. The Board shall continue to be elected by the Members subject to Developer's right to appoint a member to the Board as specified in the Act at each subsequent Annual Members' Meeting, until Developer is no longer entitled to appoint a member to the Board.

I. The Initial Election Meeting and the Majority Election Meeting shall be called by the Association, through its Board, within seventy-five (75) days after the Purchaser Members are entitled to elect a Director or the majority of Directors, as the case may be. A notice of the election shall be forwarded to all Members in accordance with the Bylaws; provided, however, that the Members shall be given at least sixty (60) days' notice of such election. The notice shall also specify the number of Directors that shall be elected by the Purchaser Members and the remaining number of Directors designated by Developer.

J. Developer shall cause all of its designated Directors to resign when Developer no longer holds at least five percent (5%) of the Units for sale in the ordinary course of business. In addition, Developer may at any time, in its sole discretion, cause the voluntary resignation of all of the Directors designated by it. The happening of either such event is herein referred to as the "Developer's Resignation Event." Upon the Developer's Resignation Event, the Directors elected by Members shall elect successor Directors to fill the vacancies caused by the resignation or removal of the Developer's designated Directors. These successor Directors shall serve until the next Annual Members' Meeting and until their successors are elected and qualified; provided, however, nothing herein contained shall be deemed to waive any right to representation on the Board which Developer may have pursuant to the Act. Developer specifically reserves the right to assert any right to representation on the Board it may have pursuant to the Act, notwithstanding that the Developer's Resignation Event may have previously occurred.

K. At each Annual Members' Meeting held subsequent to the year in which the Developer's Resignation Event occurs, the number of Directors to be elected shall be determined by the Board from time to time, but there shall not be less than three (3) Directors nor more than seven (7).

L. The following provisions shall govern the right of each Director to vote and the manner of exercising such right:

1. There shall be only one (1) vote for each Director.
2. In the case of deadlock by the Board, application shall be made to a court of competent jurisdiction to resolve the deadlock.

### ARTICLE X POWERS AND DUTIES OF THE BOARD OF DIRECTORS

All of the powers and duties of the Association shall be exercised by the Board in accordance with the provisions of the Act and the Condominium Documents, where applicable, and shall include, but not be limited to, the following:

- A. Making and collecting Assessments against Members to defray the costs of the Common Expenses.
- B. Using the proceeds of Assessments in the exercise of the powers and duties of the Association and the Board.
- C. Maintaining, repairing and operating the improvements within the Condominium.
- D. Reconstructing improvements after casualties and losses and making further authorized improvements within the Condominium.
- E. Making and amending rules and regulations with respect to the Condominium.
- F. Enforcing by legal means the provisions of the Condominium Documents.
- G. Contracting for the management and maintenance of the Condominium Property, authorizing a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of improvements or portions thereof for which the Association has such responsibility and other services with funds that shall be made available by the Association for such purposes and terminating such contracts and authorizations. The Association and its officers shall, however, retain at all times the powers and duties granted by the Condominium Documents and the Act including, but not limited to, the making of Assessments, promulgation of rules and regulations and execution of contracts on behalf of the Association.

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H. Paying taxes and Assessments which are or may become liens against the Common Elements of the Condominium and assessing the same against Units within the Condominium, the Unit Owners of which are responsible for the payment thereof.

I. Purchasing and carrying insurance for the protection of Members and the Association against casualty and liability in accordance with the Act and the Condominium Documents and acquiring one insurance policy to insure the Condominium Property to allocate the premiums therefor in a fair and equitable manner.

J. Paying costs of all power, water, sewer and other utility services rendered to the Condominium Property not billed directly to Unit Owners of the individual Units.

K. Hiring and retaining such employees as are necessary to administer and carry out the services required for the proper administration and purposes of this Association and paying all salaries therefor.

L. Engaging in mandatory non-binding arbitration as provided for in Section 718.112(2)(a)2 of the Act for the settlement of disputes as provided for in Section 718.1255 of the Act. The provisions of Sections 718.112(2)(a)2 and 718.1255 of the Act are incorporated by reference herein.

M. Ensuring that the following contracts shall be in writing:

- (i) Any contract for the purchase, lease or renting of materials or equipment which is not to be fully performed within one (1) year from the date of execution of the contract.
- (ii) Any contract, regardless of term, for the provision of services; other than contracts with employees of the Association, and contracts for attorneys and accountant services, and any other service contracts exempted from the foregoing requirement by the Act as may be amended from time to time.

N. Obtaining competitive bids for materials, equipment and services where required by the Act.

O. All other powers and duties reasonably necessary to operate and maintain the Condominium in compliance with the Condominium Documents and the Act.

## ARTICLE XI INDEMNIFICATION

Every Director and every officer of the Association (and the Directors and/or officers as a group) shall be indemnified by the Association against all expenses and liabilities, including legal fees (at all trial and appellate levels) reasonably incurred by or imposed upon him or them in

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connection with any proceeding, litigation or settlement in which he or she may become involved by reason of his or her being or having been a Director or officer of the Association. The foregoing provisions for indemnification shall apply whether or not he or she is a Director or officer at the time such expenses and/or liabilities are incurred. Notwithstanding the above, in the event of a settlement, the indemnification provisions herein shall not be automatic and shall apply only when the Board approves such settlement and authorizes reimbursement for the costs and expenses of the settlement as in the best interest of the Association. In instances where a Director or officer admits or is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties, the indemnification provisions of these Articles shall not apply. Otherwise, the foregoing rights to indemnification shall be in addition to and not exclusive of any and all rights of indemnification to which a Director or officer may be entitled whether by statute or common law. The indemnification hereby afforded to Directors and officers shall also extend to any entity other than the Association found responsible or liable for the actions of such individuals in their capacity as Directors or officers, including, but not limited to Developer.

## ARTICLE XII BYLAWS

The Bylaws of the Association shall be adopted by the First Board and thereafter may be altered, amended or rescinded only by the affirmative vote of not less than a majority of the Voting Interests present at an Annual Members' Meeting or special meeting of the membership and the affirmative approval of a majority of the Board at a regular or special meeting of the Board. In the event of a conflict between the provisions of these Articles and the provisions of the Bylaws, the provisions of these Articles shall control.

## ARTICLE XIII AMENDMENTS

A. Prior to the recording of the Declaration amongst the Public Records, these Articles may be amended by an instrument in writing signed by the President (or a Vice President) and the Secretary (or an Assistant Secretary) and filed in the Office of the Secretary of State of the State of Florida. The instrument amending these Articles shall identify the particular Article or Articles being amended, give the exact language of such amendment and give the date of adoption of the amendment by the Board. A certified copy of each such amendment shall always be attached to any certified copy of these Articles or a certified copy of the Articles as restated to include such amendments and shall be an exhibit to the Declaration upon the recording of each Declaration. This Article XIII is intended to comply with Chapter 617, Florida Statutes.

B. After the recording of the Declaration amongst the Public Records, these Articles may be amended in the following manner:

1. The Board shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of Members, which may be either the Annual Members' Meeting or a special meeting. Any number of amendments may be submitted to the Members and voted upon by them at one meeting;

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2. Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each Member of record entitled to vote within the time and in the manner provided in the Bylaws for the giving of notice of Meetings of Members ("Required Notice");

3. At such meeting a vote of the Members and of the Developer shall be taken on the proposed amendments. The proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the Voting Interests of all Members entitled to vote thereon and the approval of the Developer; or

4. An amendment may be adopted by a written statement signed by all Directors and written consent of Members representing the Voting Interests sufficient to pass the amendment if the vote were to be taken at a meeting where all members are present and setting forth their intention that an amendment to the Articles be adopted. Where an amendment is passed by written consent in lieu of meeting, those Members not submitting written consent shall be notified in writing of the passage thereof.

C. No amendment may be made to the Articles which shall in any manner reduce, amend, affect or modify the terms, conditions, provisions, rights and obligations set forth in the Declaration.

D. A copy of each amendment shall be certified by the Secretary of State of the State of Florida and, after the recordation of the Declaration, recorded amongst the Public Records as an amendment to the Declaration.

E. Notwithstanding the provisions of this Article XIII, there shall be no amendment to these Articles which shall abridge, amend or alter the rights of Developer, including the right to designate and select the Directors as provided in Article IX hereof, without the prior written consent thereto by Developer nor shall there be any amendment to these Articles which shall abridge, alter or modify the rights of the holder, guarantor or insurer of a first mortgage on any Unit or of any "Institutional Mortgagee" (as defined in each Declaration) without its prior written consent.

#### ARTICLE XIV EMERGENCY POWERS

The following shall apply to the extent not viewed to be in conflict with the Act:

A. During any emergency defined in Paragraph E below or in anticipation of such emergency, the Board may:

1. Modify lines of succession to accommodate the incapacity of any Director, officer, agent or employee of the Association; and

2. Relocate the principal office of the Association or designate alternate principal offices or authorize officers to do so.

B. During any emergency defined in Paragraph E below:

1. One or more officers of the Association present at a meeting of the Board may be deemed to be Directors for the meeting, in order of rank and within the same order of rank in order of seniority, as necessary to achieve a quorum; and
2. The Director or Directors in attendance at a meeting shall constitute a quorum.

C. Corporate action taken in good faith during an emergency under this Article XIV to further the ordinary affairs of the Association:

1. Binds the Association; and
2. May not be used to impose liability on a Director, officer, employee or agent of the Association.

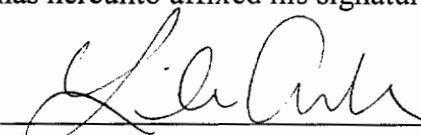
D. A Director, officer or employee of the Association acting in accordance with any emergency bylaws is only liable for willful misconduct.

E. An emergency exists for the purposes of this Article XIV if a quorum of the Directors cannot readily assemble because of a catastrophic event.

#### ARTICLE XV REGISTERED OFFICE AND REGISTERED AGENT

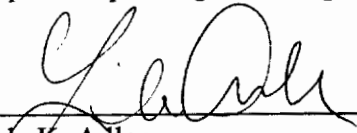
The street address of the initial registered office of the Association is 1400 N.W. 107<sup>th</sup> Avenue, 5<sup>th</sup> Floor, Miami, Florida 33172 and the initial registered agent of the Association at that address shall be Linda K. Adler.

IN WITNESS WHEREOF, the Incorporator has hereunto affixed his signature, this 31<sup>st</sup> day of March, 2006.

  
Linda K. Adler, Incorporator

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The undersigned hereby accepts the designation of Registered Agent of Sunport Commerce Center Condominium Association, Inc. as set forth in Article XV of these Articles and acknowledges that he is familiar with, and accepts the obligations imposed upon registered agents under, the Florida Not For Profit Corporation Act.

  
Linda K. Adler

**EXHIBIT D  
BYLAWS  
OF  
SUNPORT COMMERCE CENTER CONDOMINIUM ASSOCIATION, INC.**

**Section 1.     Identification of Association**

These are the Bylaws of SUNPORT COMMERCE CENTER CONDOMINIUM ASSOCIATION, INC. ("Association"), as duly adopted by its Board of Directors ("Board"). The Association is a corporation not for profit, organized pursuant to Chapter 617, Florida Statutes, for the purpose of managing, operating, and administering the condominium known as "Sunport Commerce Center Condominium" as more particularly set forth in the Articles of Incorporation of the Association ("Articles").

1.1.     The office of the Association shall be for the present at 1400 N.W. 107<sup>th</sup> Avenue, 5<sup>th</sup> Floor, Miami, Florida 33172, and thereafter may be located at any place designated by the Board.

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" and the words "Corporation Not For Profit."

**Section 2.     Definitions**

2.1.     All terms shall have the meanings set forth in Chapter 718, Florida Statutes, (the same being the "*Condominium Act*") ("Act") as amended through the recording of the Declaration amongst the Public Records of Orange County, Florida ("County") and, for clarification, certain terms shall have the meanings ascribed to them in the Articles.

2.2.     Notwithstanding anything to the contrary herein, references to any of the Condominium Documents shall be deemed to include any amendment to any such document as set forth therein.

**Section 3.     Membership; Members' Meetings; Voting and Proxies**

3.1.     The qualification of Members, the manner of their admission to membership in the Association, and the manner of termination of such membership shall be as set forth in the Articles.

3.2.     The Members shall meet annually at the office of the Association or at such other place in the County, at such time as determined by the Board and as designated in the notice of such meeting ("Annual Members' Meeting"), commencing with the year following the year in which the Articles are filed with the Secretary of State of the State of Florida. All such meetings shall be conducted in the English language. The purpose of the Annual Members' Meeting shall be to hear reports of the officers, elect members of the Board (subject to the provisions of the Articles) and transact any other business authorized to be transacted at such Annual Members' Meeting.

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3.3. Special meetings of the Members shall be held at any place within the State of Florida whenever called by the President or Vice President of the Association or by a majority of the Board. A special meeting must be called by such President or Vice President upon receipt of a written request from one-third (1/3) of the Voting Interests of the Members except as otherwise provided in Sections 4.5(a) and 7.3(b) hereof.

3.4. Except as otherwise provided herein, written notice of a meeting (whether the Annual Members' Meeting or a special meeting of the Members) shall be mailed or hand delivered to each Member at his or her last known address as it appears on the books of the Association or electronically transmitted to the location furnished by the Member for that purpose. Proof of such notice shall be given by affidavit of the person who mailed, hand delivered or electronically transmitted such notice and also by such other method as may be required by the Act. The notice shall state the time and place of such meeting and shall include an agenda. Unless a Member waives in writing the right to receive notice of the meeting, written notice of Annual Members' Meetings and special meetings of the Members shall be mailed, hand delivered or electronically transmitted to each Member in the manner required by the Act, not less than fourteen (14) days prior to the date of the meeting. Notice of the Annual Members' Meeting or special meeting of the Members shall be posted at a conspicuous place on the Condominium Property, as more particularly set forth in the rules and regulations, at least fourteen (14) continuous days prior to the meeting. In lieu of or in addition to the physical posting of notice of any meeting of the Members on the Condominium Property, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Association. However, if broadcast notice is used in lieu of a notice posted physically on the Condominium Property, the notice and agenda must be broadcast at least four (4) times every broadcast hour of each day that a posted notice is otherwise required under this section. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. If a meeting of the Members, either a special meeting or an Annual Members' Meeting, is one which, by express provision of the Act or Condominium Documents (provided the express provision of the Condominium Documents are in accordance with the requirements of the Act) there is permitted or required a greater or lesser amount of time for the mailing or posting of notice than is required or permitted by the provisions of this Section 3.4, then such express provision shall govern.

3.5. The Members may waive notice of special meetings; and, at the discretion of the Board, act by written agreement in lieu of a meeting. Written notice of the matter or matters to be considered by written agreement in lieu of a meeting shall be given to the Members at the addresses and within the time periods set forth in Section 3.4 hereof or duly waived in accordance with such Section 3.4. The notice shall set forth a time period during which time a response must be made by a Member or by "Proxy." "Proxy" is defined to mean an instrument in writing, signed by a Member, appointing a person to whom the Member delegates the Member's right to cast a vote or votes in the Member's place and stead. The decision of a majority of a quorum of the Voting Interests (as evidenced by written response to be solicited in the notice) shall be binding on the Members, provided a quorum of the Voting Interests of the Members submits a response. However, if the question is one upon which, by express provisions of the Act or the Condominium Documents

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(provided the express provisions of the Condominium Documents are in accordance with the requirements of the Act), requires a vote of other than a majority vote of a quorum, then such express provision shall govern and control the required vote on the decision of such question.

3.6. A quorum of the Voting Interests of the Members shall consist of Voting Interests entitled to cast votes on behalf of thirty percent (30%) of the total Voting Interests of the entire Membership. When a quorum is present at any meeting and a question which raises the jurisdiction of such meeting is presented, the holders of a majority of the Voting Interests present in person or represented by written Proxy shall be required to decide the question. However, if the question is one which, by express provision of the Act or the Condominium Documents (provided the express provision of the Condominium Documents is in accordance with the requirements of the Act), requires a vote other than the majority vote of a quorum, then such express provision shall govern and control the required vote on the decision of such question.

3.7. If any meeting of the Members cannot be properly held because a quorum is not in attendance, the Members who are present, either in person or by Proxy, may adjourn the meeting from time to time until a quorum is present. A quorum is not required for an election to occur; however, at least twenty percent (20%) of the eligible Voting Interests must cast a ballot in order to have a valid election of Directors. In the case of the meeting being adjourned, the notice provisions for the adjournment shall be subject to the Act as determined by the Board.

3.8. At any Annual Members' Meeting at which the election of Directors are to occur Directors shall be elected by written ballot or voting machine. In no event shall Proxies be used in electing the Board, either in general elections or elections to fill vacancies caused by resignation, recall, or otherwise, unless otherwise provided in the Act. The procedures for the nomination of candidates and voting in elections shall be as provided in Section 718.112(2)(d)3 of the Act.

3.9. If a quorum is not in attendance at a Meeting, the Members entitled to vote thereat who are present, either in person or by Proxy, may adjourn the Meeting from time to time until a quorum is present with no further notice of such adjourned Meeting being required unless otherwise determined by the Board. In the event any meeting is adjourned or postponed to be continued at another time because a quorum is not present at such meeting, then and in that event, the quorum requirements provided herein shall be reduced to the presence in person or by Proxy of one-third (1/3) of the Voting Interests of Members of the Association at the adjourned meeting. Actions approved by a majority of the Voting Interests of Members present or by Proxy at such adjourned meeting at which such reduced quorum exists shall be binding upon all Members and for all purposes except where otherwise provided by law, in the Declaration, in the Articles, or herein. Reduction of the quorum requirements shall apply only if the Board sends notice of the adjourned or postponed meeting to the Members as elsewhere provided, which notice must specifically provide that quorum requirements will be reduced at the adjourned or postponed meeting.

3.10. Minutes of meetings shall be kept in a businesslike manner and shall be available for inspection by the Members and Directors at reasonable times. The Association shall retain minutes for at least seven (7) years subsequent to the date of the meeting the minutes report.

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3.11. Voting rights of Members shall be as stated in the Declaration and in the Articles. Such votes may be cast in person or by Proxy. Proxies shall be valid only for the particular meeting designated therein and any lawful adjournments thereof; provided, however, that no Proxy shall be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given, provided, this express provision is not inconsistent with the requirements of the Act, in which case the Act shall govern and control. Each Proxy shall contain the date, time and place of the meeting for which the Proxy is given. A limited Proxy shall set forth those items which the holder of the Proxy may vote and the manner in which the vote is cast. Members shall not vote by general Proxy, except as provided in Section 718.112(2)(b)2 of the Act, but may vote by limited Proxy. A Proxy must be filed with the Secretary of the Association before the appointed time of the meeting in order to be effective. Any Proxy may be revoked prior to the time a vote is cast by virtue of such Proxy.

3.12. Upon demand of any Member at any time prior to a vote upon any matter at a meeting of the Members, any Member may demand voting on such matter by secret ballot. The chairman of the meeting shall call for nominations for inspectors of election to collect and tally such ballots upon the completion of balloting upon the subject matter.

3.13. Members shall have the right to participate in meetings with reference to all designated agenda items in accordance with the rules and regulations. In addition, any Member may tape record or videotape a meeting in accordance with the rules and regulations.

#### Section 4. Board of Directors; Directors' Meetings

4.1. The form of administration of the Association shall be by a Board of not less than three (3) Directors. At each Annual Members' Meeting held subsequent to the year in which the Developer's Resignation Event occurs, the number of Directors (which must be an odd number) shall be determined by the Board from time to time. Except for Developer-appointed Directors, Directors must be Members of the Association or the spouses, parents or children of Members.

4.2. The provisions of the Articles setting forth the selection, designation, election and removal of Directors are hereby incorporated herein by reference. Voting for Directors, if applicable, shall be noncumulative. Directors elected by the Members in accordance with Article IX of the Articles shall be elected by a plurality of votes cast by the Voting Interests of the Members present in person or by Proxy and entitled to vote at a properly held Annual Members' Meeting or special meeting of the Members.

4.3. Subject to Section 4.5 below and the rights of Developer as set forth in the Articles, vacancies on the Board shall be filled by person(s) elected by the affirmative vote of a majority of the remaining Directors. Such person shall be a Director and have all the rights, privileges, duties and obligations as a Director elected at the Annual Members' Meeting. A Director elected by the Board to fill a vacancy shall hold office only until the next election of Directors by the Members.

4.4. The term of each Director's service, except as provided in Section 4.3 hereof, shall extend until the next Annual Members' Meeting and thereafter, until his or her successor is duly elected and qualified or until he or she is removed in the manner elsewhere provided herein.

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4.5. (a) A Director elected by the Purchaser Members, as provided in the Articles, may be removed from office with or without cause upon the affirmative vote or the agreement in writing of the Purchaser Members acting on behalf of a majority of Voting Interests held by Purchaser Members at a special meeting of the Purchaser Members. Any such recall shall be effected and a recall election shall be held, if applicable, as provided in Section 718.112(2)(j) of the Act.

(b) A Director on the First Board or designated by Developer as provided in the Articles may be removed only by Developer in its sole discretion and without any need for a meeting or vote. Developer shall have the unqualified right to name successors to fill any vacancies occurring for any reason on the Board among Directors on the First Board or designated by it, and Developer shall notify the Board as to any such removal or vacancy and the name of the successor Director and of the commencement date for the term of such successor Director.

4.6. Notice to Members of the Annual Members' Meeting at which the Board of Directors is elected shall specify that the organizational meeting of the newly elected Board shall be held immediately following the Annual Members' Meeting. In the event the newly elected Board announces at the Annual Members' Meeting that it will not have its organizational meeting immediately after the Annual Members' Meeting, the Members shall be properly noticed as provided for in these Bylaws. No further notice of the organizational meeting shall be necessary, providing that a quorum shall be present at such organizational meeting.

4.7. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of Directors. All meetings of the Board shall be conducted in the English language. Special meetings of the Board may be called at the discretion of the President or the Vice President of the Association. Special meetings must be called by the Secretary at the written request of one-third (1/3) of the Directors. Participation in meetings of the Board by telephone or another form of electronic communication is permitted subject to the requirements of Section 718.112(2)(b)5 of the Act.

4.8. Notice of the time, agenda and place of regular and special meetings of the Board, or adjournments thereof, shall be given to each Director personally or by mail, telephone or telegraph at least three (3) days prior to the day specified for such meeting. Except in an emergency, notice of a Board meeting shall be posted conspicuously on the Condominium Property, as more specifically set forth in the rules and regulations, at least forty-eight (48) continuous hours in advance for the attention of Members. Notice of any meeting where regular assessments against Members are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. Notice of a meeting where non-emergency Special Assessments or amendments to rules regarding Unit use will be considered shall be mailed, hand delivered or electronically transmitted to the Owners and posted conspicuously on the Condominium Property not less than fourteen (14) days prior to the meeting. In lieu of or in addition to the physical posting of notice of any meeting of the Members on the Condominium Property, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Association. However, if broadcast notice is used in lieu of a notice posted physically on the Condominium Property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a

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posted notice is otherwise required under this section. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Proof of such notice shall be given by affidavit executed by the person providing the notice and filed among the official records of the Association. Any Director may waive notice of the meeting before, during or after a meeting and such waiver shall be deemed equivalent to the receipt of notice by such Director.

4.9. A quorum of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. Matters approved by a majority of the Directors present at a meeting at which a quorum is present shall constitute the official acts of the Board, except as specifically provided elsewhere herein or in any of the Condominium Documents. A Director who is present at a meeting of the Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken, unless he or she votes against such action or abstains from voting in respect thereto because of an asserted conflict of interest. A vote or abstention for each Director present shall be recorded in the minutes. If at any meetings of the Board there shall be less than a quorum present, the majority of those present entitled to vote may adjourn the meeting from time to time until a quorum is present. At any properly held adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted. In the case of the adjournment of a meeting, the notice provisions for the adjournment shall, subject to the Act, be as determined by the Board.

4.10. The President shall be the presiding officer at Board meetings. In the absence of the President, the Directors present shall designate any one of their number to preside.

4.11. Directors shall not receive any compensation for their services.

4.12. The Board shall have the power to appoint executive committees of the Board consisting of not less than two (2) Directors. Executive committees shall have and exercise such powers of the Board as may be delegated to such executive committees by the Board.

4.13. Meetings of the Board shall be open to all Members. Members shall have the right to participate in meetings with reference to all designated agenda items in accordance with the rules and regulations. All Board meetings shall be conducted in the English language. In addition, any Member may tape record or videotape a meeting in accordance with the rules and regulations.

#### Section 5. Fining Procedure for Enforcement of the Condominium Documents; Fees

5.1. A nonexclusive optional procedure for Board enforcement of the Condominium Documents, including the rules and regulations, shall be as follows:

##### 5.1.1. First Offense (1st Notice)

When the Association becomes aware of noncompliance of a rule or regulation by a Unit Owner, family member, guest, invitee or lessee, it shall send a certified letter to the Unit Owner advising him or her of the rule which he or she has been accused of violating and warning

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that strict compliance with the rules and regulations will be required. Each day on which a violation occurs shall be deemed to be a separate offense.

#### 5.1.2. Second Offense (2nd Notice)

If the Association receives a second report that a violation has been repeated or has been continued beyond the time specified within the first notice, the Board, after verifying the violation, may authorize a fine to be levied upon the Unit Owner. The fine for a second offense may not exceed the maximum amount permitted by the Act. Notice of a second violation shall be sent to the Unit Owner by certified mail.

#### 5.1.3. Third Offense (3rd Notice)

If the Association receives a third report that a violation has been repeated or has continued beyond the time specified within the second notice, the Unit Owner may be charged a fine in an amount not to exceed the maximum amount permitted by the Act, following verification of the violation by the Board.

#### 5.1.4. Fourth Offense

For repeated offenses or in any case where the Board deems it appropriate, the Board may seek injunctive relief through court action. In addition, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed the amount set forth in Section 718.303(3) of the Act.

### 5.2. Exemptions and Hearings

(a) Any Unit Owner may appear before the Association to seek an exemption from or variance in the applicability of any given rule or regulation as it relates to said person on grounds of undue hardship or other special circumstances.

(b) Where the Association levies fines, such fines shall be levied pursuant to the procedures set forth in the rules and regulations.

5.3. A Unit Owner who fails to timely pay any Assessment shall be charged a late charge by the Association for such late Assessment in an amount not to exceed the maximum amount permitted by the Act. Unit Owners shall be responsible to pay all legal fees (including but not limited to, attorney and paralegal fees and court costs) incurred in connection with the collection of late Assessments whether or not an action at law to collect said Assessment and foreclose the Association's lien has been commenced. The Association may charge an administrative fee in addition to any interest charged in accordance with the Declaration in an amount not to exceed the greater of Twenty-Five and No/100 Dollars (\$25.00) or five percent (5%) of each installment that the payment is late. Any payment received by the Association shall be applied first to any interest accrued by the Association, then to any administrative late fee, then to any court costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessment.

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5.4. (a) The existence of the Association's right to levy a fine as herein provided shall not preclude nor limit its right to seek any other enforcement method or remedy provided: (i) pursuant to the Condominium Documents; (ii) at law; or (iii) in equity.

(b) The amount of the fines as set forth herein may be increased by the Board in its sole discretion; provided, however, any such increase shall conform to the applicable requirements of the Act as to the maximum dollar amount of such fines as such maximum dollar amount may be increased by amendment of the Act from time to time.

5.5. Written Inquiries by Unit Owners

Written inquiries by Members to the Board shall be handled in accordance with Section 718.112(2)(a)(2), F.S., as it may be amended from time to time.

Section 6. Officers of the Association

6.1. Executive officers of the Association shall be the President, who shall be a Director, one or more Vice Presidents, a Treasurer, a Secretary and, if the Board so determines, an Assistant Secretary and an Assistant Treasurer, all of whom shall be elected annually by the Board. Any officer may be removed from office without cause by vote of the Directors at any meeting of the Board. The Board shall, from time to time, elect and designate the powers and duties of such other officers and assistant officers as the Board shall find to be required to manage the affairs of the Association.

6.2. The President, who shall be a Director, shall be the chief executive officer of the Association. The President shall have all of the powers and duties which are usually vested in the office of the president of a condominium association including, but not limited to, the power to appoint committees from among the Members at such times as he or she may, in his or her discretion, determine appropriate to assist in conducting the affairs of the Association. The President shall preside at all meetings of the Board.

6.3. The Vice President(s) shall generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board. In the event there shall be more than one Vice President elected by the Board, then they shall be designated "First," "Second," and so on and shall be called upon in such order to exercise the powers and perform the duties of the President if he or she is absent or incapacitated.

6.4. The Secretary shall cause the minutes of all meetings of the Board and of the Members to be kept, which minutes shall be recorded in a businesslike manner and shall be available for inspection by Members and Directors at all reasonable times. The Secretary shall have custody of the seal of the Association and shall affix the same to instruments requiring a seal when duly signed. He or she shall keep the records of the Association, except those of the Treasurer, and shall perform all of the duties incident to the office of Secretary of the Association as may be required by the Board or the President. The Assistant Secretary, if any, shall assist the Secretary and shall perform the duties of the Secretary when the Secretary is absent.

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6.5. The Treasurer shall have custody of all the property of the Association, including funds, securities and evidences of indebtedness. He or she shall keep the assessment rolls and accounts of the Members; he or she shall keep the books of the Association in accordance with good accounting practices; and he or she shall perform all the duties incident to the office of Treasurer. The Assistant Treasurer, if any, shall assist the Treasurer and shall perform the duties of the Treasurer whenever the Treasurer is absent.

6.6. Officers shall not receive compensation for their services. The compensation, if any, of all other employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from employing a Director or an officer as an employee of the Association nor preclude the contracting with a Director or an officer for the management of all or any portion of the Condominium.

## Section 7. Accounting Records; Fiscal Management

### 7.1. Accounting Records

(a) The Association shall maintain the official records of the Association in accordance with Section 718.111(12) of the Act, which records shall be open to inspection by Members and owners of first mortgages on Units or their authorized representatives at reasonable times. The Association may charge Unit Owners, owners of first mortgages on Units or their authorized representative its actual costs for preparing and furnishing copies of the documents including, but not limited to, the Declaration, Articles, Bylaws, and any amendment to the foregoing to those requesting same. Authorization of a representative of a Member must be in writing, signed by the Member giving the authorization and dated within ten (10) working days before the date of the inspection. The official records shall include accounting records for the Association maintained according to good accounting practices, and such accounting records shall be maintained for a period of not less than seven (7) years. Accounting records so maintained by the Association shall include, but are not limited to: (i) accurate, itemized and detailed records of all receipts and expenditures; (ii) a current account, and a monthly statement of the account for each Unit or as reported at such interval as may be required by the Act as amended from time to time by the Florida Legislature, designating the name of the owner thereof, the due date and amount of each assessment, the amount paid upon the account, and the balance due; (iii) all audits reviews, accounting statements and financial reports of the Association; and (iv) all contracts for work to be performed, and such bids shall be considered official records and maintained for a period of one (1) year.

(b) A report of the actual receipts and expenditures of the Association for the previous twelve (12) months ("Report") shall be prepared annually by an accountant or Certified Public Accountant in accordance with Section 718.111(13) of the Act, provided, however, the requirement for audited financial statements may be waived pursuant to said Section. A copy of the Report shall be furnished in accordance with the Act to each Member not later than the first day of April of the year following the year for which the Report is made. The Report will include account classifications designated in the Act, if applicable, and accounts otherwise included at the Board's discretion. The Report shall be deemed to be furnished to the Member upon its delivery or mailing to the Member at the last known address shown on the books and records of the Association.

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## 7.2. Budget

(a) The Board shall adopt a Budget for the Common Expenses of the Condominium ("Budget") for each forthcoming fiscal year ("Budget Year") at a special meeting of the Board ("Budget Meeting") called for that purpose in October or November prior to the applicable Budget Year. Prior to the Budget Meeting a proposed Budget for the Condominium shall be prepared by or on behalf of the Board, which Budget(s) shall include, but not be limited to, the following items of expense applicable to the Condominium:

- (i) Administration of the Association
- (ii) Utilities
- (iii) Management Fees
- (iv) Maintenance
- (v) Rent for recreational and other commonly used facilities
- (vi) Taxes upon Association Property, if any
- (vii) Taxes upon leased areas
- (viii) Insurance
- (ix) Security provisions
- (x) Other expenses
- (xi) Operating capital
- (xii) Reserves for Capital Expenditures and Deferred Maintenance

(b) The Budget for the Condominium constitutes an estimate of the expenses to be incurred by the Association for and on behalf of the Condominium.

(c) The Board shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of the Condominium Property. The Budget for the Condominium shall include, on an annual basis, the establishment of reserve accounts for capital expenditures and deferred maintenance of the Condominium Property. The reserve accounts shall include, but not be limited to, roof replacement, roadway resurfacing and building exterior repainting regardless of the amount of deferred maintenance expense or replacement cost, and for any other items for which the deferred maintenance expense or replacement cost exceeds Ten Thousand and No/100 Dollars (\$10,000.00). The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost of each reserve item. Notwithstanding any other provisions to the contrary contained herein, in the event that, by a majority vote of the Members at a duly called meeting of the Association, elect to have less than a full reserve or no reserve for deferred maintenance and replacement, then the applicable Budget shall be based on such lesser reserves or no reserves, as the case may be.

(d) Copies of the applicable proposed Budget and notice of the exact time and place of the Budget Meeting shall be mailed to each Member at the Member's last known address, as reflected on the books and records of the Association, not less than fourteen (14) days prior to said Budget Meeting, and the Budget Meeting shall be open to the Members. Failure to timely adopt a Budget for the Condominium shall not alter or abrogate the obligation to pay Common Expenses.

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(e) In administering the finances of the Association, the following procedures shall govern: (i) the fiscal year shall be the calendar year; (ii) any income received by the Association in any calendar year may be used by the Association to pay expenses incurred by the Association in the same calendar year; (iii) there shall be apportioned between calendar years on a pro rata basis any expenses which are prepaid in any one (1) calendar year for Common Expenses which cover more than such calendar year; (iv) Assessments shall be made not less frequently than monthly in amounts no less than are required to provide funds in advance for payment of all of the anticipated current expenses and for all unpaid expenses previously incurred; and (v) expenses incurred in a calendar year shall be charged against income for the same calendar year regardless of when the bill for such expenses is received. Notwithstanding the foregoing, Assessments shall be of sufficient magnitude to insure an adequacy and availability of cash to meet all budgeted expenses and anticipated cash needs in any calendar year as such expenses are incurred in accordance with the cash basis method of accounting. The cash basis method of accounting shall conform to generally accepted accounting standards and principles.

(f) No Board shall be required to anticipate revenue from Assessments or expend funds to pay for Common Expenses or Operating Expenses not included in a Budget or which shall exceed budgeted items, and no Board shall be required to engage in deficit spending. Should there exist any deficiency which results from expenses being greater than income from Assessments, then such deficits shall be carried into the applicable Budget for the next succeeding year as a deficiency or shall be the subject of a Special Assessment to be levied by the Board as otherwise provided in the Declaration.

(g) The Board may also include in the proposed Budget a sum of money as an assessment for the making of betterments to the Condominium Property for anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis. This sum of money so fixed may then be levied upon the Members by the Board as a Special Assessment and shall be considered an "Excluded Expense" under Section 7.3(a) hereof.

### 7.3. Adoption of Budget

Until the provisions of Section 718.112(2)(e) of the Act relative to the Members' approval of a Budget requiring Assessments against the Members in excess of one hundred fifteen percent (115%) of such Assessments for the Members in the preceding year are declared invalid by the courts, or until amended by the Florida Legislature, the following shall be applicable (however, if such amendment merely substitutes another amount for one hundred fifteen percent (115%), then such new amount shall be substituted for one hundred fifteen percent (115%) each time it is used in this Section 7.3):

(a) Should the Budget adopted by the Board at the Budget Meeting require Assessments against Members of an amount which is not greater than one hundred fifteen percent (115%) of such Assessments for the prior year, the Budget shall be deemed approved by all Members. If, however, the Assessments required to meet the Budget exceed one hundred fifteen percent (115%) of such assessments for the Membership for the preceding year ("Excess Assessment"), then the provisions of Sections 7.3(b) and (c) hereof shall be applicable. There shall



be excluded in the computation of the Excess Assessment certain expenses ("Excluded Expenses") as follows:

- (1) Reserves for repair or replacement of any portion of the Condominium Property;
- (2) Expenses of the Association which are not anticipated to be incurred on a regular or annual basis; and
- (3) Assessments for betterments to the Condominium Property.

(b) Should the Excess Assessment be adopted by the Board, then upon delivery to the Board, within twenty (20) days after the Budget Meeting, of a written application requesting a special meeting signed by ten percent (10%) of the Voting Interests of the Units, the Board shall call a special meeting to be held upon not less than ten (10) days' written notice to each Member, but to be held within thirty (30) days of the delivery of such application to the Board. At said special meeting, the Members shall consider and enact a Budget of Common Expenses. The adoption of the revisions to the Budget of Common Expenses shall require approval of not less than a majority of Voting Interests appurtenant to all Units in the Condominium. The Board may propose revisions to the Budget at a meeting of Members or in writing, and, if a revised Budget of Common Expenses is enacted at said special meeting, then the revised Budget shall be, as to the Common Expenses, incorporated into the final Budget. If no written application is delivered as provided herein and a quorum is not obtained or a substitute budget is not adopted by the Members, then the Budget originally adopted by the Board shall be the final Budget and shall go into effect as scheduled.

(c) Until the Majority Election Meeting, the Board shall not impose an Assessment pursuant to a Budget for Common Expenses for the Condominium which is greater than one hundred fifteen percent (115%) of the prior fiscal year's Assessment without approval of a majority of the Voting Interests of Members to be so assessed.

#### 7.4. Allocation of Common Expenses

(a) The portion of the expenses to be allocated to the operation and management of the Condominium shall be set forth in the Budget and shall constitute the Common Expenses of the Condominium. The Common Expenses shall be apportioned to each Unit Owner based upon his or her share of Common Expenses, as provided in the Declaration.

(b) Notwithstanding the allocation to each Unit of its share of Common Expenses, a Unit Owner shall also be liable for any Special Assessments levied by the Board against his or her Unit as provided in the Condominium Documents. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose or purposes set forth in such notice, or returned to the Unit Owners; provided, however, that upon completion of such specific purpose or purposes any excess funds shall be considered Common Surplus. The Association shall collect Assessments and Special Assessments for Common Expenses from a Unit Owner in the manner set forth in the Condominium Documents.

FTL:1484301:6

## 7.5 Depository

The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board in which the monies of the Association shall be deposited. Withdrawal of monies from such account shall be only by checks signed by such persons as are authorized by the Board. Notwithstanding the foregoing, the President and/or the Treasurer of the Association shall be authorized to sign checks on behalf of the Association, unless otherwise specified by the Board.

## Section 8. Rules and Regulations

The Board may adopt rules and regulations or amend or rescind existing rules and regulations for the operation and use of the Condominium at any meeting of the Board; provided such rules and regulations are not inconsistent with the Condominium Documents nor detrimental to sales of Units by Developer. Copies of any rules and regulations promulgated, amended or rescinded shall be mailed to all Unit Owners at the last known address as shown on the books and records of the Association and shall not take effect until forty-eight (48) hours after such mailing.

## Section 9. Parliamentary Rules

The then latest edition of Robert's Rules of Order shall govern the conduct of meetings of this Association when not in conflict with the Condominium Documents or the Act. In the event of a conflict, the provisions of the Condominium Documents and the Act shall govern.

## Section 10. Amendments of the Bylaws

10.1. These Bylaws may be amended by the affirmative vote of not less than a majority of Voting Interests of Members entitled to vote thereon, represented in person or by Proxy at a properly held Annual Members' Meeting or special meeting of the Membership and the approval of a majority of the Board at a regular or special meeting of the Board. A copy of the proposed amendment shall be sent to each Member along with notice of the Annual Members' Meeting or special meeting. An amendment may be approved at the same meeting of the Board and/or Members at which such amendment is proposed.

10.2. An amendment may be proposed by either the Board or by the Members, and after being proposed and approved by one of such bodies, must be approved by the other as set forth above in order to become enacted as an amendment.

10.3. No modification or amendment to these Bylaws shall be adopted which would affect or impair the priority of any holder, insurer or guarantor of a first mortgage on any Unit in the Condominium, the validity of such mortgage or any of the rights of Developer.

## Section 11. Fidelity Bonding

The Association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the Association in accordance with Section 718.111(11)(d) of the Act.

FTL:1484301:6

Section 12. Condemnation of Common Elements

The Association has a limited power to convey a portion of the Common Elements to a condemning authority for the purpose of providing utility easements, right-of-way expansion or other public purposes, whether negotiated or as a result of eminent domain proceedings.

SUNPORT COMMERCE CENTER  
CONDOMINIUM ASSOCIATION, INC., a Florida  
corporation not for profit

EXHIBIT E  
TO  
DECLARATION OF CONDOMINIUM  
OF  
SUNPORT COMMERCE CENTER CONDOMINIUM

Percentage of Ownership in Common Elements

<u>Building</u>	<u>Unit #</u>	<u>% Ownership in Common Elements</u>
1	101	1.87%
1	102	1.87%
1	103	1.89%
1	104	1.89%
1	105	1.89%
1	106	1.89%
1	107	1.89%
1	108	1.88%
1	109	1.88%
1	110	1.89%
1	111	1.89%
1	112	1.89%
1	113	1.89%
1	114	1.89%
1	115	1.88%
1	116	1.88%
1	117	1.89%
1	118	1.89%
1	119	1.89%
1	120	1.89%
1	121	1.89%
1	122	1.88%
1	123	1.87%
2	201	1.89%
2	202	1.91%
2	203	1.92%
2	204	1.92%
2	205	1.92%
2	206	1.91%
2	207	1.91%
2	208	1.92%
2	209	1.92%
2	210	1.92%
2	211	1.91%
2	212	1.89%

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3	301	1.87%
3	302	1.89%
3	303	1.89%
3	304	1.89%
3	305	1.89%
3	306	1.88%
3	307	1.89%
3	308	1.89%
3	309	1.89%
3	310	1.89%
3	311	1.87%

4	401	1.62%
4	402	1.63%
4	403	1.63%
4	404	1.63%
4	405	1.63%
4	406	1.63%
4	407	1.63%
4	408	1.62%

<b>Total:</b>	<b>100.00%</b>
---------------	----------------

EXHIBIT F  
TO  
DECLARATION OF CONDOMINIUM  
OF  
SUNPORT COMMERCE CENTER CONDOMINIUM

*Sign Specifications*

**EXTERIOR WALL-MOUNTED SIGNS**

1. Neither Developer nor the Association shall be responsible for any costs relating to the fabrication of signs, permits, permit fees and installation. Unit Owners assume responsibility for all costs for the sign and associated permits.
2. The Association will only approve wall signs that are in conformity with these specifications.
3. All signs shall be in conformance with all applicable state and national codes and in complete conformance with the Orange County Signage Ordinances.
4. Wording on large-scale signs shall be limited to company or trade name only. No logos are allowed.
5. Flashing, blinking, rotating, moving, illuminated, animated or audible signs are not permitted.
6. The size of all signs shall be limited as set forth in Item 8 herein. Signs shall be located exclusively on the street oriented elevation (wall). Signs shall be installed in the designated dark blue area above storefront glass.
7. Sign letters shall be Helvetica Bold and white in color. The letters shall be manufactured out of Sintra. Signs shall be non-illuminated.
8. Signage shall conform to the following proportionate size criteria:
  - (a) Primary text line letters shall be 12" in height and 7/8" in depth.
  - (b) Signs shall be limited to approximately 25 feet of horizontal width and 50 square feet overall.
9. If the company name does not fit within the given area, a generic name must be used in lieu of the company name (i.e. "Marine Supplier").
10. Printed signs or signs painted on the exterior surface of any building are prohibited.
11. Paper signs, banners and flags are prohibited.

FTL:1484301:6

12. No exposed raceways, ballast boxes, or electrical transformers shall be permitted except as required by county code.
13. Unless otherwise approved, in writing by the Association, only one building-mounted sign per Unit Owner shall be permitted, even if the Unit Owner owns multiple Units.
14. Window-mounted vinyl signs showing the Unit Owner name shall only be placed below the Unit number. The lettering shall be justified to the side of the door, the letters in the company name shall be no more than 2" in height and all other information shall be 1" in height, limited to (4) lines.
15. The Association must approve all signs in writing before installation. Unit Owners must provide the Association with the following drawings:
  - (a) Elevation view of building showing sign (drawn to accurate scale) with dimensions of height of letters and length of sign.
  - (b) Structural view of sign and components with fastening detail.
16. Temporary banners, window or door graphics, parking stop painting and ground mounted monument signs shall not be permitted.

#### **UNIT NUMBER/DOOR SIGN CRITERIA**

Glass-mounted vinyl signs which include the Unit number and occupant name is the responsibility of the Developer for the purchaser of the Unit from the Developer. Thereafter, subsequent Unit Owners shall have this responsibility. Window-mounted vinyl signs showing the Unit Owner name are to be limited to being placed below the Unit number. The lettering shall be justified to the side of the door, the letters in the company name shall be no more than 2" in height and all other information to be 1" in height, limited to (4) lines of information.

The Association reserves the right to rescind any of these criteria and make such other further reasonable criteria, rules and regulations that the Association shall from time to time believe conducive to the safety, protection, care and cleanliness of Sunport Commerce Center, its operation, the preservation of good order, and the protection and comfort of its Unit Owners, their agents, employees and invitees, which criteria, rules and regulations, when made and notice of them given to Unit Owners, shall be binding upon Unit Owners as if originally prescribed.



EXHIBIT G  
TO  
DECLARATION OF CONDOMINIUM  
OF  
SUNPORT COMMERCE CENTER CONDOMINIUM

Parking Allocations

Units in Buildings 1 and 2	2.2 per 1000 square feet
Units in Buildings 3 and 4	1.6 per 1000 square feet

EXHIBIT H  
TO  
DECLARATION OF CONDOMINIUM  
OF  
SUNPORT COMMERCE CENTER CONDOMINIUM

SFWMD Permit

FTL:1484301:6



## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

ORLANDO SERVICE CENTER 7335 Lake Ellenor Drive, Orlando, FL 32809

(407) 858-6100 • FL WATS 1-800-250-4250 • Suncom 358-6100 • Fax (407) 858-6121 • [www.sfwmd.gov/organ/2\\_servicctr.html](http://www.sfwmd.gov/organ/2_servicctr.html)

CON 24-06

Regulation Department  
Application No. 990706-10

December 21, 1999

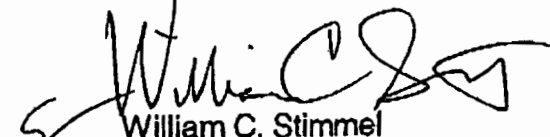
Orlando Sunport Flexspace Ltd.  
1400 Northwest 107 Avenue  
Miami, Florida 33172-2704

**Subject:** Environmental Resource Standard General Permit No. 48-01082-P  
**Permittee:** Orlando Sunport Flexspace Ltd.  
**Project:** Sunport Flex Space  
**Location:** Orange County, S36/T23S/R29E

Dear Permittee:

Enclosed please find notification and conditions of the South Florida Water Management District Environmental Resource Standard General Permit No. 48-01082-P issued December 21, 1999, for the Sunport Flex Space application. If you have questions, please do not hesitate to call me.

Sincerely,

  
William C. Stimmel  
Service Center Director  
Orlando Service Center

WCS/ahl

Enclosure

al00188

Post-It® Fax Note 7671		Date	# of pages
To	Jeff Colasanti	From	William C. Stimmel
Co./Dept.		Co.	SFWMD
Phone #		Phone #	
Fax #		Fax #	

### GOVERNING BOARD

Michael Collins, *Chairman*  
Michael D. Minton, *Vice Chairman*  
Mitchell W. Berger

Vera M. Carter  
Gerardo B. Fernandez  
Patrick J. Gleason

Nicolas J. Gutierrez, Jr.  
Harkley R. Thornton  
Trudi K. Williams

### EXECUTIVE OFFICE

Frank R. Finch, P.E., *Executive Director*  
James E. Blount, *Chief of Staff*

### SERVICE CENTER

William C. Stimmel, *Director*

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
ENVIRONMENTAL RESOURCE  
STANDARD GENERAL PERMIT NO. 48-01082-P**

Form #0941  
08/95

DATE ISSUED: December 21, 1999

PERMITTEE: ORLANDO SUNPORT FLEXSPACE LTD.  
1400 NORTHWEST 107 AVENUE  
MIAMI, FL 33172-2704

PROJECT DESCRIPTION: A SURFACE WATER MANAGEMENT SYSTEM SERVING 12.32 ACRE(S) OF  
INDUSTRIAL DEVELOPMENT KNOWN AS SUNPORT FLEX SPACE.

PROJECT LOCATION: ORANGE COUNTY. SECTION 36 TWP 23S RGE 29E

PERMIT DURATION: Five years from the date issued to complete construction of the  
surface water management system as authorized herein. See attached  
Rule 40E-4.321. Florida Administrative Code.

This is to notify you of the District's agency action concerning Notice of Intent for  
Permit Application No. 990706-10, dated July 6, 1999. This action is taken pursuant to  
Rule 40E-1.603 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

Based on the information provided, District rules have been adhered to and an  
Environmental Resource General Permit is in effect for this project subject to:


1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative  
hearing.
2. the attached General Conditions,
3. the attached 10 Special Conditions, and
4. the attached 7 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of  
Rights" which addresses the procedures to be followed if you desire a public hearing  
or other review of the proposed agency action. Please contact this office if you  
have any questions concerning this matter. If we do not hear from you in accordance  
with the "Notice of Rights," we will assume that you concur with the District's  
action.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the  
persons listed in the attached distribution list) no later than 5:00 p.m. on this  
21st day of December, 1999, in accordance with Section 120.60(3), Florida Statutes.

BY:

  
William C. Stimmel  
Service Center Director  
Orlando Service Center

Certified Mail No. Z 534 358 388

Enclosures

## NOTICE OF RIGHTS

Section 120.569(1), Fla. Stat. (1997), requires that "each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply." Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

### Petition for Administrative Proceedings

1. A person whose substantial interests are affected by the South Florida Water Management District's (SFWMD) action has the right to request an administrative hearing on that action. The affected person may request either a formal or an informal hearing, as set forth below. A point of entry into administrative proceedings is governed by Rules 28-106.111 and 40E-1.511, Fla. Admin. Code, (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109), as set forth below. Petitions are deemed filed upon receipt of the original documents by the SFWMD Clerk.

a. Formal Administrative Hearing: If a genuine issue(s) of material fact is in dispute, the affected person seeking a formal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(1), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.201(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

b. Informal Administrative Hearing: If there are no issues of material fact in dispute, the affected person seeking an informal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(2), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.301(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

c. Administrative Complaint and Order:  
If a Respondent objects to a SFWMD Administrative Complaint and Order, pursuant to Section 373.119, Fla. Stat. (1997), the person named in the Administrative Complaint and Order may file a petition for a hearing no later than 14 days after the date such order is served. Petitions must substantially comply with the requirements of either subsection a. or b. above.

d. State Lands Environmental Resource Permit: Pursuant to Section 373.427, Fla. Stat., and Rule 40E-1.511(3), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), a petition objecting to the SFWMD's agency action regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands (SLERPs), must be filed within 14 days of the notice of consolidated intent to grant or deny the SLERP. Petitions must substantially comply with the requirements of either subsection a. or b. above.

e. Emergency Authorization and Order:  
A person whose substantial interests are affected by a SFWMD Emergency Authorization and Order, has a right to file a petition under Sections 120.569, 120.57(1), and 120.57(2), Fla. Stat., as provided in subsections a. and b. above. However, the person, or the agent of the person responsible for causing or contributing to the emergency conditions shall take whatever action necessary to cause immediate compliance with the terms of the Emergency Authorization and Order.

1. Order for Emergency Action: A person whose substantial interests are affected by a SFWMD Order for Emergency Action has a right to file a petition pursuant to Rules 28-107.005 and 40E-1.611, Fla. Admin. Code, copies of which are attached to this Notice of Rights, and Section 373.119(3), Fla. Stat., for a hearing on the Order. Any subsequent agency action or proposed agency action to initiate a formal revocation proceeding shall be separately noticed pursuant to section g. below.

g. Permit Suspension, Revocation, Annulment, and Withdrawal: If the SFWMD issues an administrative complaint to suspend, revoke, annul, or withdraw a permit, the permittee may request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Fla. Stat., within 21 days of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-107.004(3), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

2. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the SFWMD's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by

any such final decision of the SFWMD shall have, pursuant to Rule 40E-1.511(2), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), an additional 21 days from the date of receipt of notice of said decision to request an administrative hearing. However, the scope of the administrative hearing shall be limited to the substantial deviation.

3. Pursuant to Rule 40E-1.511(4), Fla. Admin. Code, substantially affected persons entitled to a hearing pursuant to Section 120.57(1), Fla. Stat., may waive their right to such a hearing and request an informal hearing before the Governing Board pursuant to Section 120.57(2), Fla. Stat., which may be granted at the option of the Governing Board.

4. Pursuant to Rule 28-106.111(3), Fla. Admin. Code, persons may file with the SFWMD a request for extension of time for filing a petition. The SFWMD, for good cause shown, may grant the extension. The request for extension must contain a certificate that the petitioner has consulted with all other parties, if any, concerning the extension and that the SFWMD and all other parties agree to the extension.

#### CIRCUIT COURT

5. Pursuant to Section 373.617, Fla. Stat., any substantially affected person who claims that final agency action of the SFWMD relating to permit decisions constitutes an unconstitutional taking of property without just compensation may seek judicial review of the action in circuit court by filing a civil action in the circuit court in the judicial circuit in which the affected property is located within 90 days of the rendering of the SFWMD's final agency action.

6. Pursuant to Section 403.412, Fla. Stat., any citizen of Florida may bring an action for injunctive relief against the SFWMD to compel the SFWMD to enforce the laws of Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code. The complaining party must file with the SFWMD Clerk a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. If the SFWMD does not take appropriate action on the complaint within 30 days of receipt, the complaining party may then file a civil suit for injunctive relief in the 15<sup>th</sup> Judicial Circuit in and for Palm Beach County or circuit court in the county where the cause of action allegedly occurred.

7. Pursuant to Section 373.433, Fla. Stat., a private citizen of Florida may file suit in circuit court to require the abatement of any stormwater management system, dam, impoundment, reservoir, appurtenant work or works that violate the provisions of Chapter 373, Fla. Stat.

#### DISTRICT COURT OF APPEAL

8. Pursuant to Section 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

#### LAND AND WATER ADJUDICATORY COMMISSION

9. A party to a "proceeding below" may seek review by the Land and Water Adjudicatory Commission (LAWAC) of SFWMD's final agency action to determine if such action is consistent with the provisions and purposes of Chapter 373, Fla. Stat. Pursuant to Section 373.114, Fla. Stat., and Rules 42-2.013 and 42-2.0132, Fla. Admin. Code, a request for review of (a) an order or rule of the SFWMD must be filed with LAWAC within 20 days after rendition of the order or adoption of the rule sought to be reviewed; (b) an order of the Department of Environmental Protection (DEP) requiring amendment or repeal of a SFWMD rule must be filed with LAWAC within 30 days of rendition of the DEP's order, and (c) a SFWMD order entered pursuant to a formal administrative hearing under Section 120.57(1), Fla. Stat., must be filed no later than 20 days after rendition of the SFWMD's final order. Simultaneous with filing, a copy of the request for review must be served on the DEP Secretary, any person named in the SFWMD or DEP final order, and all parties to the proceeding below. A copy of Rule 42-2.013, Fla. Admin. Code is attached to this Notice of Rights.

#### PRIVATE PROPERTY RIGHTS PROTECTION ACT

10. A property owner who alleges a specific action of the SFWMD has inordinately burdened an existing use of the real property, or a vested right to a specific use of the real property, may file a claim in the circuit court where the real property is located within 1 year of the SFWMD action pursuant to the procedures set forth in Subsection 70.001(4)(a), Fla. Stat.

#### LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION

11. A property owner who alleges that a SFWMD development order (as that term is defined in Section 70.51(2)(a), Fla. Stat. to include permits) or SFWMD enforcement action is unreasonable, or unfairly burdens the use of the real property, may file a request for relief with the SFWMD within 30 days of receipt of the SFWMD's order or notice of agency action pursuant to the procedures set forth in Subsections 70.51(4) and (6), Fla. Stat.

#### MEDIATION

12. A person whose substantial interests are, or may be, affected by the SFWMD's action may choose mediation as an alternative remedy under Section 120.573, Fla. Stat. Pursuant to Rule 28-106.111(2), Fla. Admin. Code, the petition for mediation shall be filed within 21 days of either written notice through mail or posting or

publication of notice that the SFWMD has or intends to take final agency action. Choosing mediation will not adversely affect the right to an administrative hearing if mediation does not result in settlement.

Pursuant to Rule 28-106.402, Fla. Admin. Code, the contents of the petition for mediation shall contain the following information:

(1) the name, address, and telephone number of the person requesting mediation and that person's representative, if any;

(2) a statement of the preliminary agency action;

(3) an explanation of how the person's substantial interests will be affected by the agency determination; and

(4) a statement of relief sought.

As provided in Section 120.573, Fla. Stat. (1997), the timely agreement of all the parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Fla. Stat., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within 60 days of the execution of the agreement. If mediation results in settlement of the dispute, the SFWMD must enter a final order incorporating the agreement of the parties. Persons whose substantial interest will be affected by such a modified agency decision have a right to petition for hearing within 21 days of receipt of the final order in accordance with the requirements of Sections 120.569 and 120.57, Fla. Stat., and SFWMD Rule 28-106.201(2), Fla. Admin. Code. If mediation terminates without settlement of the dispute, the SFWMD shall notify all parties in writing that the administrative hearing process under Sections 120.569 and 120.57, Fla. Stat., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action.

#### VARIANCES AND WAIVERS

13. A person who is subject to regulation pursuant to a SFWMD rule and believes the application of that rule will create a substantial hardship or will violate principles of fairness (as those terms are defined in Subsection 120.542(2), Fla. Stat.) and can demonstrate that the purpose of the underlying statute will be or has been achieved by other means, may file a petition with the SFWMD Clerk requesting a variance from or waiver of the SFWMD rule. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have concerning the SFWMD's action. Pursuant to Rule 28-104.002(2), Fla. Admin. Code, the petition must include the following information:

(a) the caption shall read:

Petition for (Variance from) or (Waiver of) Rule (Citation)

(b) The name, address, telephone number and any facsimile number of the petitioner;

(c) The name, address telephone number and any facsimile number of the attorney or qualified representative of the petitioner, (if any);

(d) the applicable rule or portion of the rule;

(e) the citation to the statute the rule is implementing;

(f) the type of action requested;

(g) the specific facts that demonstrate a substantial hardship or violation of principles of fairness that would justify a waiver or variance for the petitioner;

(h) the reason why the variance or the waiver requested would serve the purposes of the underlying statute; and

(i) a statement of whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

A person requesting an emergency variance from or waiver of a SFWMD rule must clearly so state in the caption of the petition. In addition to the requirements of Section 120.542(5), Fla. Stat. pursuant to Rule 28-104.004(2), Fla. Admin. Code, the petition must also include:

a) the specific facts that make the situation an emergency; and

b) the specific facts to show that the petitioner will suffer immediate adverse effect unless the variance or waiver is issued by the SFWMD more expeditiously than the applicable timeframes set forth in Section 120.542, Fla. Stat.

#### WAIVER OF RIGHTS

14. Failure to observe the relevant time frames prescribed above will constitute a waiver of such right.

#### 28-106.201

#### INITIATION OF PROCEEDINGS

(INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and

(f) A demand for relief.



**28-106.301 INITIATION OF PROCEEDINGS...**  
(NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and

(e) A demand for relief.

**28-107.004 SUSPENSION, REVOCATION, ANNULMENT, OR WITHDRAWAL**

(3) Requests for hearing filed in accordance with this rule shall include:

(a) The name and address of the party making the request, for purposes of service;

(b) A statement that the party is requesting a hearing involving disputed issues of material fact, or a hearing not involving disputed issues of material fact; and

(c) A reference to the notice, order to show cause, administrative complaint, or other communication that the party has received from the agency.

**42-2.013 REQUEST FOR REVIEW PURSUANT TO SECTION 373.114 OR 373.217**

(1) In any proceeding arising under Chapter 373, F.S., review by the Florida Land and Water Adjudicatory Commission may be initiated by the Department or a party by filing a request for such review with the Secretary of the Commission and serving a copy on any person named in the rule or order, and on all parties to the proceeding which resulted in the order sought to be reviewed. A certificate of service showing completion of service as required by this subsection shall be a requirement for a determination of sufficiency under Rule 42-2.0132. Failure to file the request with the Commission within the time period provided in Rule 42-2.0132 shall result in dismissal of the request for review.

(2) The request for review shall identify the rule or order requested to be reviewed, the proceeding in which the rule or order was entered and the nature of the rule or order. A copy of the rule or order sought to be reviewed shall be attached. The request for review shall state with particularity:

(a) How the order or rule conflicts with the requirements, provisions and purposes of Chapter 373, F.S., or rules duly adopted thereunder;

(b) How the rule or order sought to be reviewed affects the interests of the party seeking review;

(c) The oral or written statement, sworn or unsworn, which was submitted to the agency concerning the matter to be reviewed and the date and location of the statement, if the individual or entity requesting the review has not participated in a proceeding previously instituted pursuant to Chapter 120, F.S., on the order for which review is sought;

(d) If review of an order is being sought, whether and how the activity authorized by the order would substantially affect natural resources of statewide or regional significance, or whether the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from a standpoint of agency precedent, and all the factual bases in the record which the petitioner claims support such determination(s); and

(e) The action requested to be taken by the Commission as a result of the review, whether to rescind or modify the order, or remand the proceeding to the water management district for further action, or to require the water management district to initiate rulemaking to adopt, amend or repeal a rule.

**28-107.005 EMERGENCY ACTION**

(1) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency action, the agency shall summarily suspend, limit, or restrict a license.

(2) the 14-day notice requirement of Section 120.569(2)(b), F. S., does not apply and shall not be construed to prevent a hearing at the earliest time practicable upon request of an aggrieved party.

(3) Unless otherwise provided by law, within 20 days after emergency action taken pursuant to paragraph (1) of this rule, the agency shall initiate a formal suspension or revocation proceeding in compliance with Sections 120.569, 120.57, and 120.60, F.S.

**40E-1.611 EMERGENCY ACTION**

(1) An emergency exists when immediate action is necessary to protect public health, safety or welfare; the health of animals, fish or aquatic life; the works of the District; a public water supply, or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.

(2) The Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.

## ENVIRONMENTAL RESOURCE PERMIT

## CHAPTER 40E-4 (10/95)

## 40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C. is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years, from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. the effective date of the local government's comprehensive plan amendment.
2. the effective date of the local government development order.
3. the date on which the District issues the conceptual approval, or
4. the latest date of the resolution of any Chapter 120.57, F.A.C., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For a noticed general permit issued pursuant to Chapter 40E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. the Governing Board takes action on an application for extension of an individual permit,

or

2. staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.

Specific authority 373.044, 373.113 F.S. Law Implemented 373.413, 373.416, 373.419, 373.426 F.S. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4/20/94, 10-3-95

## GENERAL CONDITIONS

1. ALL ACTIVITIES AUTHORIZED BY THIS PERMIT SHALL BE IMPLEMENTED AS SET FORTH IN THE PLANS, SPECIFICATIONS AND PERFORMANCE CRITERIA AS APPROVED BY THIS PERMIT. ANY DEVIATION FROM THE PERMITTED ACTIVITY AND THE CONDITIONS FOR UNDERTAKING THAT ACTIVITY SHALL CONSTITUTE A VIOLATION OF THIS PERMIT AND PART IV, CHAPTER 373, F.S.
2. THIS PERMIT OR A COPY THEREOF, COMPLETE WITH ALL CONDITIONS, ATTACHMENTS, EXHIBITS, AND MODIFICATIONS SHALL BE KEPT AT THE WORK SITE OF THE PERMITTED ACTIVITY. THE COMPLETE PERMIT SHALL BE AVAILABLE FOR REVIEW AT THE WORK SITE UPON REQUEST BY THE DISTRICT STAFF. THE PERMITTEE SHALL REQUIRE THE CONTRACTOR TO REVIEW THE COMPLETE PERMIT PRIOR TO COMMENCEMENT OF THE ACTIVITY AUTHORIZED BY THIS PERMIT.
3. ACTIVITIES APPROVED BY THIS PERMIT SHALL BE CONDUCTED IN A MANNER WHICH DOES NOT CAUSE VIOLATIONS OF STATE WATER QUALITY STANDARDS. THE PERMITTEE SHALL IMPLEMENT BEST MANAGEMENT PRACTICES FOR EROSION AND POLLUTION CONTROL TO PREVENT VIOLATION OF STATE WATER QUALITY STANDARDS. TEMPORARY EROSION CONTROL SHALL BE IMPLEMENTED PRIOR TO AND DURING CONSTRUCTION, AND PERMANENT CONTROL MEASURES SHALL BE COMPLETED WITHIN 7 DAYS OF ANY CONSTRUCTION ACTIVITY. TURBIDITY BARRIERS SHALL BE INSTALLED AND MAINTAINED AT ALL LOCATIONS WHERE THE POSSIBILITY OF TRANSFERRING SUSPENDED SOLIDS INTO THE RECEIVING WATERBODY EXISTS DUE TO THE PERMITTED WORK. TURBIDITY BARRIERS SHALL REMAIN IN PLACE AT ALL LOCATIONS UNTIL CONSTRUCTION IS COMPLETED AND SOILS ARE STABILIZED AND VEGETATION HAS BEEN ESTABLISHED. ALL PRACTICES SHALL BE IN ACCORDANCE WITH THE GUIDELINES AND SPECIFICATIONS DESCRIBED IN CHAPTER 6 OF THE FLORIDA LAND DEVELOPMENT MANUAL; A GUIDE TO SOUND LAND AND WATER MANAGEMENT (DEPARTMENT OF ENVIRONMENTAL REGULATION, 1988), INCORPORATED BY REFERENCE IN RULE 40E-4.091, F.A.C. UNLESS A PROJECT-SPECIFIC EROSION AND SEDIMENT CONTROL PLAN IS APPROVED AS PART OF THE PERMIT. THEREAFTER THE PERMITTEE SHALL BE RESPONSIBLE FOR THE REMOVAL OF THE BARRIERS. THE PERMITTEE SHALL CORRECT ANY EROSION OR SHOALING THAT CAUSES ADVERSE IMPACTS TO THE WATER RESOURCES.
4. THE PERMITTEE SHALL NOTIFY THE DISTRICT OF THE ANTICIPATED CONSTRUCTION START DATE WITHIN 30 DAYS OF THE DATE THAT THIS PERMIT IS ISSUED. AT LEAST 48 HOURS PRIOR TO COMMENCEMENT OF ACTIVITY AUTHORIZED BY THIS PERMIT, THE PERMITTEE SHALL SUBMIT TO THE DISTRICT AN ENVIRONMENTAL RESOURCE PERMIT CONSTRUCTION COMMENCEMENT NOTICE FORM NO. 0960 INDICATING THE ACTUAL START DATE AND THE EXPECTED COMPLETION DATE.
5. WHEN THE DURATION OF CONSTRUCTION WILL EXCEED ONE YEAR, THE PERMITTEE SHALL SUBMIT CONSTRUCTION STATUS REPORTS TO THE DISTRICT ON AN ANNUAL BASIS UTILIZING AN ANNUAL STATUS REPORT FORM. STATUS REPORT FORMS SHALL BE SUBMITTED THE FOLLOWING JUNE OF EACH YEAR.

6. WITHIN 30 DAYS AFTER COMPLETION OF CONSTRUCTION OF THE PERMITTED ACTIVITY, THE PERMITTEE SHALL SUBMIT A WRITTEN STATEMENT OF COMPLETION AND CERTIFICATION BY A REGISTERED PROFESSIONAL ENGINEER OR OTHER APPROPRIATE INDIVIDUAL AS AUTHORIZED BY LAW, UTILIZING THE SUPPLIED ENVIRONMENTAL RESOURCE PERMIT CONSTRUCTION COMPLETION/CONSTRUCTION CERTIFICATION FORM NO.0881. THE STATEMENT OF COMPLETION AND CERTIFICATION SHALL BE BASED ON ONSITE OBSERVATION OF CONSTRUCTION OR REVIEW OF ASBUILT DRAWINGS FOR THE PURPOSE OF DETERMINING IF THE WORK WAS COMPLETED IN COMPLIANCE WITH PERMITTED PLANS AND SPECIFICATIONS. THIS SUBMITTAL SHALL SERVE TO NOTIFY THE DISTRICT THAT THE SYSTEM IS READY FOR INSPECTION. ADDITIONALLY, IF DEVIATION FROM THE APPROVED DRAWINGS ARE DISCOVERED DURING THE CERTIFICATION PROCESS, THE CERTIFICATION MUST BE ACCOMPANIED BY A COPY OF THE APPROVED PERMIT DRAWINGS WITH DEVIATIONS NOTED. BOTH THE ORIGINAL AND REVISED SPECIFICATIONS MUST BE CLEARLY SHOWN. THE PLANS MUST BE CLEARLY LABELED AS "ASBUILT" OR "RECORD" DRAWING. ALL SURVEYED DIMENSIONS AND ELEVATIONS SHALL BE CERTIFIED BY A REGISTERED SURVEYOR.
7. THE OPERATION PHASE OF THIS PERMIT SHALL NOT BECOME EFFECTIVE; UNTIL THE PERMITTEE HAS COMPLIED WITH THE REQUIREMENTS OF CONDITION (6) ABOVE, HAS SUBMITTED A REQUEST FOR CONVERSION OF ENVIRONMENTAL RESOURCE PERMIT FROM CONSTRUCTION PHASE TO OPERATION PHASE, FORM NO.0920; THE DISTRICT DETERMINES THE SYSTEM TO BE IN COMPLIANCE WITH THE PERMITTED PLANS AND SPECIFICATIONS; AND THE ENTITY APPROVED BY THE DISTRICT IN ACCORDANCE WITH SECTIONS 9.0 AND 10.0 OF THE BASIS OF REVIEW FOR ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS WITHIN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT - AUGUST 1995, ACCEPTS RESPONSIBILITY FOR OPERATION AND MAINTENANCE OF THE SYSTEM. THE PERMIT SHALL NOT BE TRANSFERRED TO SUCH APPROVED OPERATION AND MAINTENANCE ENTITY UNTIL THE OPERATION PHASE OF THE PERMIT BECOMES EFFECTIVE. FOLLOWING INSPECTION AND APPROVAL OF THE PERMITTED SYSTEM BY THE DISTRICT, THE PERMITTEE SHALL INITIATE TRANSFER OF THE PERMIT TO THE APPROVED RESPONSIBLE OPERATING ENTITY IF DIFFERENT FROM THE PERMITTEE. UNTIL THE PERMIT IS TRANSFERRED PURSUANT TO SECTION 40E-1.6107, F.A.C., THE PERMITTEE SHALL BE LIABLE FOR COMPLIANCE WITH THE TERMS OF THE PERMIT.
8. EACH PHASE OR INDEPENDENT PORTION OF THE PERMITTED SYSTEM MUST BE COMPLETED IN ACCORDANCE WITH THE PERMITTED PLANS AND PERMIT CONDITIONS PRIOR TO THE INITIATION OF THE PERMITTED USE OF SITE INFRASTRUCTURE LOCATED WITHIN THE AREA SERVED BY THAT PORTION OR PHASE OF THE SYSTEM. EACH PHASE OR INDEPENDENT PORTION OF THE SYSTEM MUST BE COMPLETED IN ACCORDANCE WITH THE PERMITTED PLANS AND PERMIT CONDITIONS PRIOR TO TRANSFER OF RESPONSIBILITY FOR OPERATION AND MAINTENANCE OF THE PHASE OR PORTION OF THE SYSTEM TO A LOCAL GOVERNMENT OR OTHER RESPONSIBLE ENTITY.
9. FOR THOSE SYSTEMS THAT WILL BE OPERATED OR MAINTAINED BY AN ENTITY THAT WILL REQUIRE AN EASEMENT OR DEED RESTRICTION IN ORDER TO ENABLE THAT ENTITY TO OPERATE OR MAINTAIN THE SYSTEM IN CONFORMANCE WITH THIS PERMIT, SUCH EASEMENT OR DEED RESTRICTION MUST BE RECORDED IN THE PUBLIC RECORDS AND SUBMITTED TO THE DISTRICT ALONG WITH ANY OTHER FINAL OPERATION AND MAINTENANCE DOCUMENTS REQUIRED BY SECTIONS 9.0 AND 10.0 OF THE BASIS OF REVIEW FOR ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS WITHIN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT - AUGUST 1995, PRIOR TO LOT OR UNIT SALES OR PRIOR TO THE COMPLETION OF THE SYSTEM, WHICHEVER OCCURS FIRST. OTHER DOCUMENTS CONCERNING THE ESTABLISHMENT AND AUTHORITY OF THE OPERATING ENTITY MUST BE FILED WITH THE SECRETARY OF STATE WHERE APPROPRIATE. FOR THOSE SYSTEMS WHICH ARE PROPOSED TO BE MAINTAINED BY THE COUNTY OR MUNICIPAL ENTITIES, FINAL OPERATION AND MAINTENANCE DOCUMENTS MUST BE RECEIVED BY THE DISTRICT WHEN MAINTENANCE AND OPERATION OF THE SYSTEM IS ACCEPTED BY THE LOCAL GOVERNMENT ENTITY. FAILURE TO SUBMIT THE APPROPRIATE FINAL DOCUMENTS WILL RESULT IN THE PERMITTEE REMAINING LIABLE FOR CARRYING OUT MAINTENANCE AND OPERATION OF THE PERMITTED SYSTEM AND ANY OTHER PERMIT CONDITIONS.

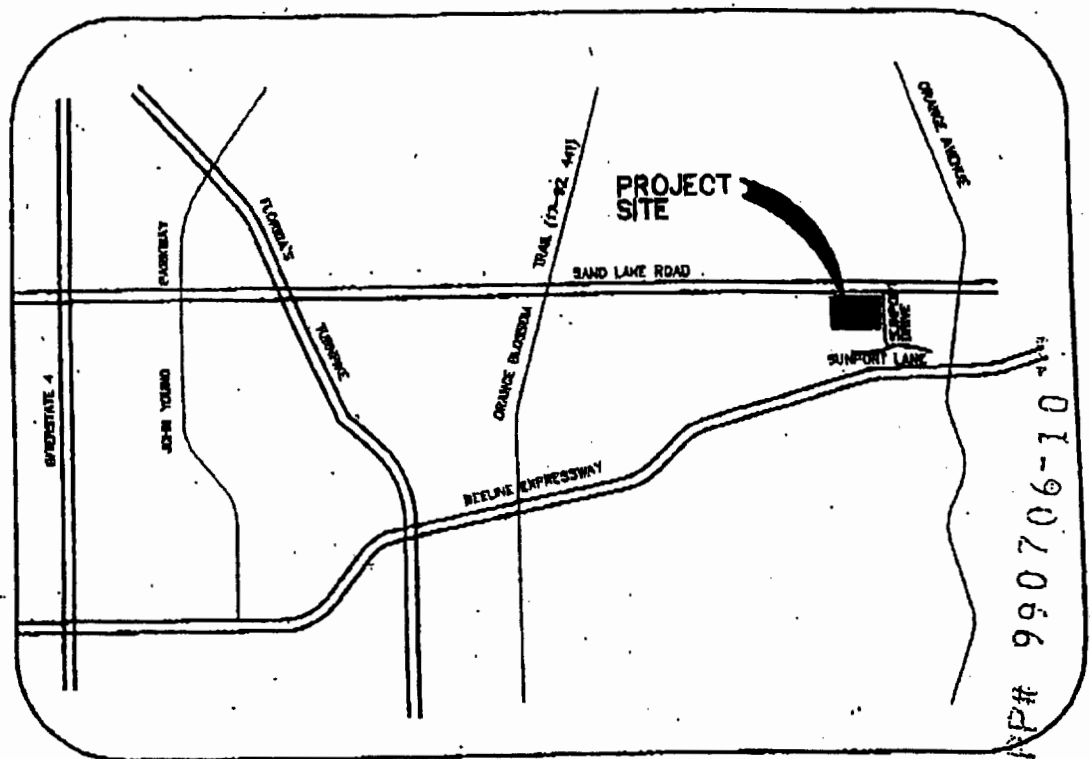
10. SHOULD ANY OTHER REGULATORY AGENCY REQUIRE CHANGES TO THE PERMITTED SYSTEM, THE PERMITTEE SHALL NOTIFY THE DISTRICT IN WRITING OF THE CHANGES PRIOR TO IMPLEMENTATION SO THAT A DETERMINATION CAN BE MADE WHETHER A PERMIT MODIFICATION IS REQUIRED.
11. THIS PERMIT DOES NOT ELIMINATE THE NECESSITY TO OBTAIN ANY REQUIRED FEDERAL, STATE, LOCAL AND SPECIAL DISTRICT AUTHORIZATIONS PRIOR TO THE START OF ANY ACTIVITY APPROVED BY THIS PERMIT. THIS PERMIT DOES NOT CONVEY TO THE PERMITTEE OR CREATE IN THE PERMITTEE ANY PROPERTY RIGHT, OR ANY INTEREST IN REAL PROPERTY, NOR DOES IT AUTHORIZE ANY ENTRANCE UPON OR ACTIVITIES ON PROPERTY WHICH IS NOT OWNED OR CONTROLLED BY THE PERMITTEE, OR CONVEY ANY RIGHTS OR PRIVILEGES OTHER THAN THOSE SPECIFIED IN THE PERMIT AND CHAPTER 40E-4 OR CHAPTER 40E-40, F.A.C.
12. THE PERMITTEE IS HEREBY ADVISED THAT SECTION 253.77, F.S. STATES THAT A PERSON MAY NOT COMMENCE ANY EXCAVATION, CONSTRUCTION, OR OTHER ACTIVITY INVOLVING THE USE OF SOVEREIGN OR OTHER LANDS OF THE STATE, THE TITLE TO WHICH IS VESTED IN THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND WITHOUT OBTAINING THE REQUIRED LEASE, LICENSE, EASEMENT, OR OTHER FORM OF CONSENT AUTHORIZING THE PROPOSED USE. THEREFORE, THE PERMITTEE IS RESPONSIBLE FOR OBTAINING ANY NECESSARY AUTHORIZATIONS FROM THE BOARD OF TRUSTEES PRIOR TO COMMENCING ACTIVITY ON SOVEREIGNTY LANDS OR OTHER STATE-OWNED LANDS.
13. THE PERMITTEE MUST OBTAIN A WATER USE PERMIT PRIOR TO CONSTRUCTION DEWATERING, UNLESS THE WORK QUALIFIES FOR A GENERAL PERMIT PURSUANT TO SUBSECTION 40E-20.302(4), F.A.C., ALSO KNOWN AS THE "NO NOTICE" RULE.
14. THE PERMITTEE SHALL HOLD AND SAVE THE DISTRICT HARMLESS FROM ANY AND ALL DAMAGES, CLAIMS, OR LIABILITIES WHICH MAY ARISE BY REASON OF THE CONSTRUCTION, ALTERATION, OPERATION, MAINTENANCE, REMOVAL, ABANDONMENT OR USE OF ANY SYSTEM AUTHORIZED BY THE PERMIT.
15. ANY DELINEATION OF THE EXTENT OF A WETLAND OR OTHER SURFACE WATER SUBMITTED AS PART OF THE PERMIT APPLICATION, INCLUDING PLANS OR OTHER SUPPORTING DOCUMENTATION, SHALL NOT BE CONSIDERED BINDING UNLESS A SPECIFIC CONDITION OF THIS PERMIT OR A FORMAL DETERMINATION UNDER SECTION 373.421(2), F.S., PROVIDES OTHERWISE.
16. THE PERMITTEE SHALL NOTIFY THE DISTRICT IN WRITING WITHIN 30 DAYS OF ANY SALE, CONVEYANCE, OR OTHER TRANSFER OF OWNERSHIP OR CONTROL OF A PERMITTED SYSTEM OR THE REAL PROPERTY ON WHICH THE PERMITTED SYSTEM IS LOCATED. ALL TRANSFERS OF OWNERSHIP OR TRANSFERS OF A PERMIT ARE SUBJECT TO THE REQUIREMENTS OF RULES 40E-1.6105 AND 40E-1.6107, F.A.C. THE PERMITTEE TRANSFERRING THE PERMIT SHALL REMAIN LIABLE FOR CORRECTIVE ACTIONS THAT MAY BE REQUIRED AS A RESULT OF ANY VIOLATIONS PRIOR TO THE SALE, CONVEYANCE OR OTHER TRANSFER OF THE SYSTEM.
17. UPON REASONABLE NOTICE TO THE PERMITTEE, DISTRICT AUTHORIZED STAFF WITH PROPER IDENTIFICATION SHALL HAVE PERMISSION TO ENTER, INSPECT, SAMPLE AND TEST THE SYSTEM TO INSURE CONFORMITY WITH THE PLANS AND SPECIFICATIONS APPROVED BY THE PERMIT.
18. IF HISTORICAL OR ARCHAEOLOGICAL ARTIFACTS ARE DISCOVERED AT ANY TIME ON THE PROJECT SITE, THE PERMITTEE SHALL IMMEDIATELY NOTIFY THE APPROPRIATE DISTRICT SERVICE CENTER.
19. THE PERMITTEE SHALL IMMEDIATELY NOTIFY THE DISTRICT IN WRITING OF ANY PREVIOUSLY SUBMITTED INFORMATION THAT IS LATER DISCOVERED TO BE INACCURATE.

## SPECIAL CONDITIONS

1. MINIMUM BUILDING FLOOR ELEVATION: 99 FEET NGVD.
  2. MINIMUM PARKING LOT ELEVATION: 96 FEET NGVD.
  3. DISCHARGE FACILITIES:
    - 1-.25' DIA. CIRCULAR ORIFICE WITH INVERT AT ELEV. 93' NGVD.
    - 580 LF OF .66' DIA. RCP CULVERT.
    - 1-3.33' W X 4.42' L DROP INLET WITH CREST AT ELEV. 97' NGVD.
- RECEIVING BODY : EXISTING ROAD SYSTEM
- CONTROL ELEV : 93 FEET NGVD. /93 FEET NGVD DRY SEASON.
4. THE PERMITTEE SHALL BE RESPONSIBLE FOR THE CORRECTION OF ANY EROSION, SHOALING OR WATER QUALITY PROBLEMS THAT RESULT FROM THE CONSTRUCTION OR OPERATION OF THE SURFACE WATER MANAGEMENT SYSTEM.
  5. MEASURES SHALL BE TAKEN DURING CONSTRUCTION TO INSURE THAT SEDIMENTATION AND/OR TURBIDITY PROBLEMS ARE NOT CREATED IN THE RECEIVING WATER.
  6. THE DISTRICT RESERVES THE RIGHT TO REQUIRE THAT ADDITIONAL WATER QUALITY TREATMENT METHODS BE INCORPORATED INTO THE DRAINAGE SYSTEM IF SUCH MEASURES ARE SHOWN TO BE NECESSARY.
  7. LAKE SIDE SLOPES SHALL BE NO STEEPER THAN 5:1 (HORIZONTAL:VERTICAL) TO A DEPTH OF TWO FEET BELOW THE CONTROL ELEVATION. SIDE SLOPES SHALL BE NURTURED OR PLANTED FROM 2 FEET BELOW TO 1 FOOT ABOVE CONTROL ELEVATION TO INSURE VEGETATIVE GROWTH.
  8. FACILITIES OTHER THAN THOSE STATED HEREIN SHALL NOT BE CONSTRUCTED WITHOUT AN APPROVED MODIFICATION OF THIS PERMIT.
  9. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION OF FUTURE PHASES, PAVING, GRADING, AND DRAINAGE PLANS SHALL BE SUBMITTED TO THE DISTRICT FOR PERMIT MODIFICATIONS.
  10. OPERATION OF THE SURFACE WATER MANAGEMENT SYSTEM SHALL BE THE RESPONSIBILITY OF ORLANDO SUNPORT FLEXXSPACE, LTD..



ORIGINAL SUBMITTAL  
JUL - 6 1999  
ORLANDO SERVICE CENTER



VACINITY MAP  
NOT TO SCALE

DESCRIPTION: (AS FURNISHED)

THAT PART OF SECTION 36, TOWNSHIP 23 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA DESCRIBED AS:

BEGIN AT A POINT 75.0 FEET SOUTH OF THE NORTHWEST CORNER OF SECTION 36, TOWNSHIP 23 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA; THENCE N 89°30'00" E PARALLEL TO AN 75.0 FEET SOUTH AS MEASURED AT RIGHT ANGLE, TO THE NORTH LINE OF SAID SECTION 36, A DISTANCE OF 845.03 FEET TO A POINT; THENCE SOUTH A DISTANCE OF 638.90 FEET TO A POINT; THENCE S 89°57'35" W A DISTANCE OF 845.00 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 36; THENCE NORTH A DISTANCE OF 632.12 FEET TO THE POINT OF BEGINNING.

EXHIBIT 1



## PROJECT: SUNPORT FLEX SPACE

PERMIT SUMMARY SHEET

APPLICATION NUMBER: 990706-10

LOCATION: ORANGE COUNTY, S36/T23S/R29E

OWNER: ORLANDO SUNPORT FLEXXSPACE, LTD.

ENGINEER: AMERICAN CIVIL ENGINEERING COMPANY

PROJECT AREA: 12.32 ACRES DRAINAGE AREA: 12.32 ACRES

PROJECT USE: INDUSTRIAL

FACILITIES:

1. EXISTING: This is an existing undeveloped upland site on the south side of Sand Lake Road. Existing development abuts the site on the south and west.
2. PROPOSED: Construction proposed consists of industrial office/warehouse buildings and parking areas. The water management system consists of inlets and culverts directing runoff to a dry detention pond, then to a wet detention pond prior to discharge to the existing Florida Department of Transportation system in the Sand Lake Road right-of-way.

PROJECT LEVEL:

DRAINAGE BASIN: BOGGY CREEK

RECEIVING BODY: BOGGY CREEK VIA EXISTING FDOT SYSTEM

PARKING LOT CRITERIA: 10YR-1DAY STORM

BASIN DESIGN FREQUENCY: 25YR-1DAY STORM

WATER QUALITY:

Water quality treatment in excess of 2.5 inches times the percentage of impervious coverage is provided in a wet detention pond. In addition, in excess of the first one-half inch of runoff is pre-treated in a dry detention pond prior to connecting to the wet pond.

Basin	Method	Vol	Vol
		Req'd. (ac-ft)	Prov'd (ac-ft)
SUNPORT FLEXXSPACE	.72 acres DRY DETENTION	.22	.66
SUNPORT FLEXXSPACE	.92 acres WET DETENTION	.86	8.50

Exhibit 1.A

APPLICATION NUMBER: 990706-10  
 LOCATION: ORANGE COUNTY, S36/T23S/R29E

#### DISCHARGE RATE:

As shown in the table below, the proposed project discharge is within the allowable limit for the area. The project detains the runoff from the 25 year 24 hour storm with recovery by a bleeder orifice only.

Basin	Allow Disch (cfs)	Method of Determination	Design Disch (cfs)	Design Stage (ft. NGVD)
SUNPORT FLEXXSPACE	.9	DISCHARGE FORMULA	.24	96.8

#### ENVIRONMENTAL ASSESSMENT:

##### ENDANGERED, THREATENED & SPECIES OF SPECIAL CONCERN SUMMARY:

The project site does not contain preferred habitat for wetland-dependent endangered/threatened species or species of special concern. No wetland-dependent endangered/threatened species or species of special concern were observed on site, and submitted information indicates that potential use of the site by such species is minimal. This permit does not relieve the applicant from complying with all applicable rules and any other agencies' requirements if in the future, endangered/threatened species or species of special concern are discovered on the site.

##### ENVIRONMENTAL SUMMARY:

The project site consists of an open grassed lot with scattered shrubs. No adverse impacts to wetlands, surface waters or listed species are anticipated as the result of the proposed activities.

The proposed activities have been evaluated for potential secondary and cumulative impacts and to determine if the project is contrary to the public interest. Based upon the proposed project design, the District has determined that the project will not cause adverse secondary or cumulative impacts to the water resources and is not contrary to the public interest.

Exhibit 2-13

APPLICATION NUMBER: 990706-10  
 LOCATION: ORANGE COUNTY, S36/T23S/R29E

# APPLICABLE LAND USE:

The land use table for this project is as shown below.

	TOTAL PROJECT	PREVIOUSLY PERMITTED	THIS PHASE
TOTAL ACRES	12.32		12.32 acres
WTRM ACREAGE	1.64		1.64 acres
PAVEMENT	5.83		5.83 acres
BUILD COVERAGE	3.67		3.67 acres
PERVIOUS	1.18		1.18 acres

# BASIN LEVEL BREAKDOWN AND FLOOD PROTECTION:

Basin Name: SUNPORT FLEXXSPACE

# FLOOD PROTECTION:

## PARKING LOT CRITERIA

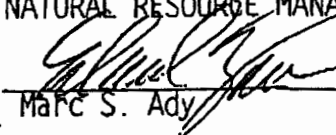
FLOOD CONTOUR 95.80 FEET NGVD  
 MINIMUM PARKING LOT GRADE 96.00 FEET NGVD

## 100 YEAR FLOOD

FLOOD CONTOUR 97.70 FEET NGVD  
 MINIMUM FLOOR ELEVATION 99.00 FEET NGVD  
 FEMA FLOOD ELEVATION FEET NGVD

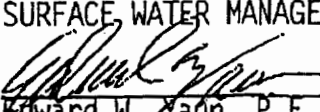
# DIVISIONAL APPROVAL:

## NATURAL RESOURCE MANAGEMENT

  
 Marc S. Ady

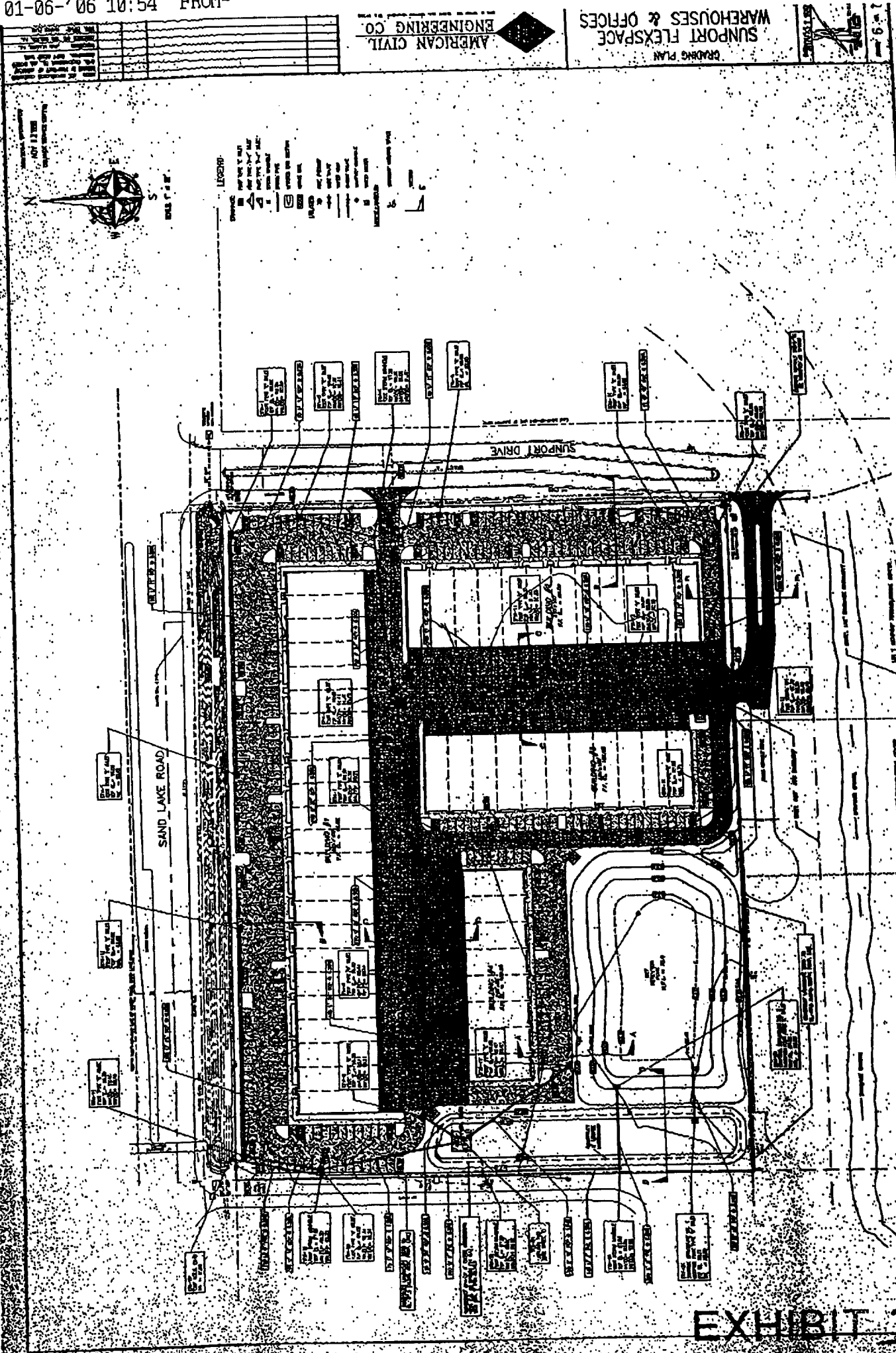
DATE: 12/12/99

## SURFACE WATER MANAGEMENT

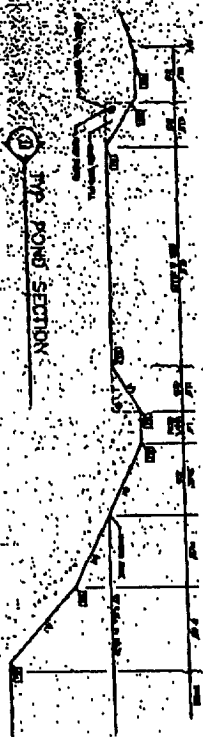
  
 Edward W. Yahn, P.E.

DATE: 12/12/99

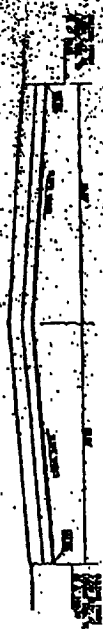
Exhibit 2-c



# EXHIBIT 4



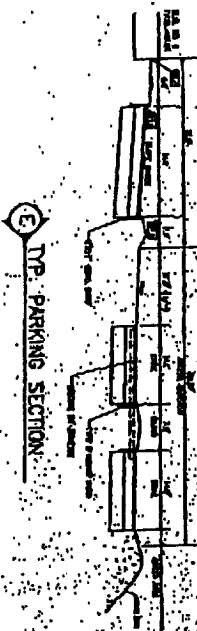
A TYP. POND SECTION



B TYP. PARKING SECTION



C TYP. POND SECTION



D TYP. PARKING SECTION

100' 1" = 100'

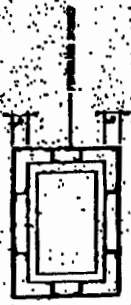
TYPICAL SECTIONS  
SUNPORT FLEXSPACE  
WAREHOUSES & OFFICES

AMERICAN CIVIL  
ENGINEERING CO.

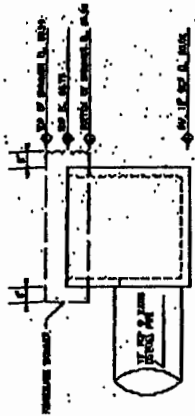
AMERICAN CIVIL  
ENGINEERING CO.

SUNPORT FLEXSPACE  
WAREHOUSES & OFFICES  
STANDARD DETAIL SHEET

Sheet 8 of 11



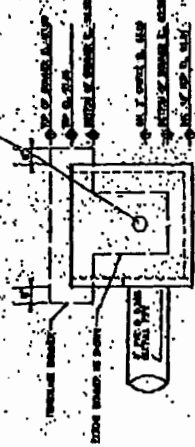
PLAN VIEW



CONTROL STRUCTURE NO. 1  
T.D.O.T. MODIFIED TYPE 'C' INLET



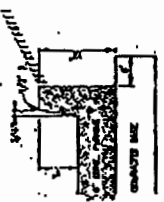
PLAN VIEW



CONTROL STRUCTURE NO. 2  
T.D.O.T. MODIFIED TYPE 'C' INLET



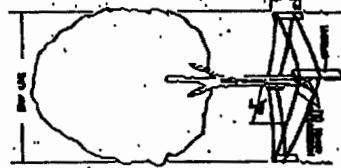
6'X16' CONCRETE CURB



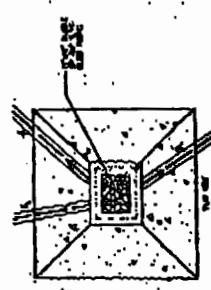
INTEGRAL CONCRETE CURB

GUTTER

- REMARKS FOR WOOD BARRED:
1. WOOD BARRED IS TO BE INSTALLED IN THE CURB.
  2. WOOD BARRED IS TO BE INSTALLED IN THE CURB.
  3. WOOD BARRED IS TO BE INSTALLED IN THE CURB.
  4. WOOD BARRED IS TO BE INSTALLED IN THE CURB.
  5. WOOD BARRED IS TO BE INSTALLED IN THE CURB.
  6. WOOD BARRED IS TO BE INSTALLED IN THE CURB.



TREE PROTECTION DETAIL



SPLASH PAD DETAIL

FLOW WAY THROUGH ISLAND DETAIL





AMERICAN CIVIL  
ENGINEERING CO.

SUNPORT FLEXSPACE  
WAREHOUSES & OFFICES

STANDARD DETAIL SHEET  
T-593

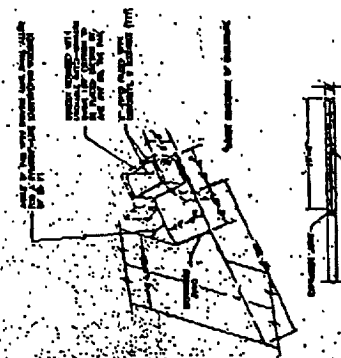
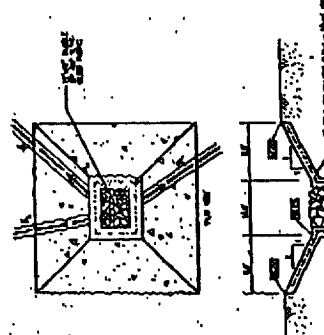
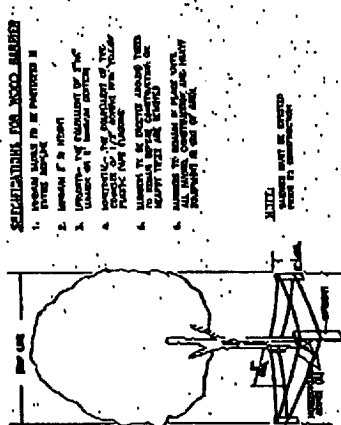
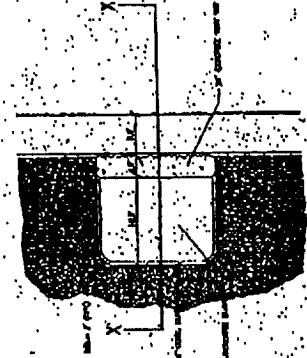
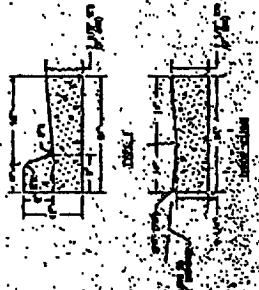
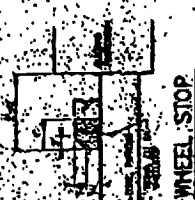
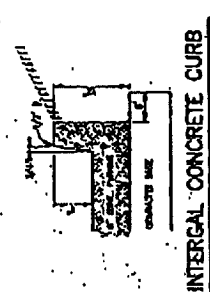
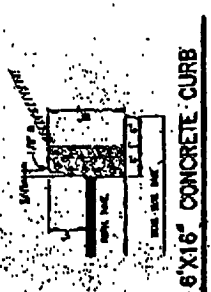
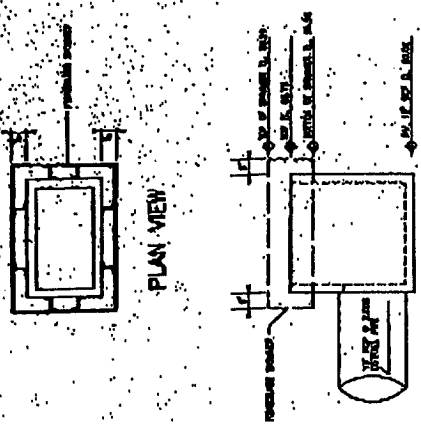
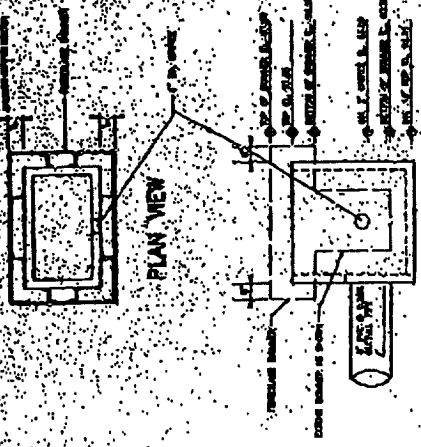


EXHIBIT 01

## EXISTING/PROPOSED LAND USE INFORMATION

NEW ENTIRE PRJ SUNPORT FLEX SPACE

ONSITE

Pre-Development					Post-Development				
Env Category	Site Id	Acreage	Quality	Habitat	Presv	Undist	Imp	Enhan	Rest Cr
UPLAND	SITE	12.32	FAIR	HERBACEOUS	.00	.00	.00	.00	.00
Totals		12.32			.00	.00	.00	.00	.00

01-06-'06 10:56 FROM-

T-593 P019/020 F-600

EXHIBIT

EXHIBIT 6

## STAFF REPORT DISTRIBUTION LIST

SUNPORT FLEX SPACE

APPLICATION NUMBER: 990706-10

PERMIT MODIFICATION NUMBER: 48-01082-P

INTERNAL DISTRIBUTION

Reviewer:

X Alan L. Leavens

X Susan C. Elfers

X Edward W. Yaun. P.E.

X Marc S. Ady

X J. Golden - REG

X A. Lee - ORL

R. Robbins - NRM

X A. Waterhouse - REG

X P. Bell - LEG

Environmental PPC Reviewer

Environmental Resource Compliance

X Permit File

EXTERNAL DISTRIBUTION

X Applicant:

ORLANDO SUNPORT FLEXXSPACE, LTD.

X Applicant's Consultant

AMERICAN CIVIL ENGINEERING COMPANY

X Engineer, County of:

ORANGE

Engineer, City of:

Local Drainage District:

DEPT. OF ENVIRONMENTAL PROTECTIONCOUNTY

X Orange

-Army Corps of Engineers

-Dept of Environmental  
Protection

-Public Utilities

BUILDING AND ZONINGOTHER

X Div of Recreation and Park - District 6

X Florida Audubon - Charles Lee

X Florida Fish &amp; Wildlife Conservation Com

X Sierra Club - Central Florida Group

X US Army Corps of Engineers

EXHIBIT 7



**CERTIFICATE REGARDING RECEIPT FOR PAID REAL ESTATE TAXES**

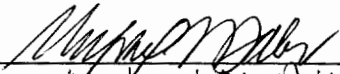
In compliance with Chapter 718.105(5), F.S., this is to certify that attached hereto as Exhibit "A" is a receipted bill indicating that all real estate taxes due and owing on the "Condominium Property" as described in the foregoing Declaration of Condominium of Sunport Commerce Center Condominium ("Declaration") have been paid as of the date of recordation of the Declaration.

ORLANDO SUNPORT FLEXXSPACE, LTD., a  
Florida limited partnership

By: Orlando Sunport FlexxSpace 2 LLC, a Florida  
limited liability company, as General Partner

By: Adler Newco GP 2, Inc., a Florida  
corporation, as Managing Member

  
Print Name: Daisy King  
  
Print Name: Carla Vacca

By:   
Name: Michael M. Adler  
Title: President


(Corporate Seal)



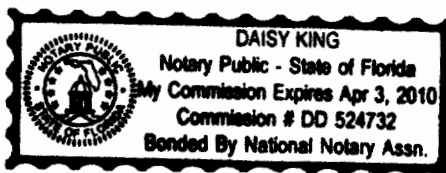
STATE OF FLORIDA       )  
                                      )  
COUNTY OF MIAMI-DADE)       SS:

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, the foregoing instrument was acknowledged before me by Michael M. Adler, the President of ADLER NEWCO GP 2, INC., a Florida corporation, as Managing Member of ORLANDO SUNPORT FLEXXSPACE 2 LLC, a Florida limited liability company and General Partner of ORLANDO SUNPORT FLEXXSPACE, LTD., a Florida limited partnership, on behalf of the company, who is personally known to me to be the officer described in and who executed the foregoing instrument.

WITNESS my hand and official seal in the County and State aforesaid this 7<sup>th</sup> day of June 2006.

  
\_\_\_\_\_  
Notary Public, State of Florida  
Daisy King

My Commission Expires:



FTL:1484301:6

# EXHIBIT A

**Earl K. Wood**  
**Orange County Tax Collector**

<i>The Information contained herein does not constitute a title search and should not be relied on as such.</i>		<input type="button" value="Print Taxbill"/>	
<b>Number:</b> 36-23-29-8920-14400 REAL ESTATE PROPERTY		<b>Owner &amp; Address:</b> ORLANDO SUNPORT FLEXXSPACE LTD ADLER PLAZA 1400 NW 107TH AVE DORAL FL 33172-2746	
<b>Requester IP:</b> 208.255.194.162	<b>Date:</b> 2/14/2006		
<b>Tax Year:</b> 2005			
<b>Total Assessed Value:</b> \$6,472,562 <b>Taxable Value:</b> \$6,472,562 <b>Gross Tax Amount:</b> \$121,451.15 <b>Millage Code:</b> 10U UNINCORPORATED		<b>Exemptions:</b> * NONE * <b>Widow, Disability, or Other:</b> Homestead:	
<b>Legal Description:</b> PINE CASTLE B/144 BEG 75 FT S T W 845 FT N 632.12 OF NW FT TO POB & THAT COR OF SEC RUN E 845.03 FT S PT OF VAC RD R/W 638.9 F ON W PER 6130/1022			
<b>Location Address:</b> 8010 SUNPORT DR			
<b>Amount Due:</b> * NONE *			
03/30/2006			
<b>Date</b>	<b>Receipt Num.</b>	<b>Amount Paid</b>	<b>Date</b>
			<b>Receipt Num. Amount Paid</b>
11/30/2005	99-111955	\$116,593.10	
<b>Non-Ad Valorem Assessments:</b> * NONE *			
<b>Unpaid Delinquent Taxes:</b> * NONE *			
<b>Year</b>	<b>Current Payoff</b>	<b>If Paid In*</b>	<b>Next Payoff</b>
			<b>If Paid In*</b>

## CONSENT OF MORTGAGEE

COMMERCEBANK, N.A., a national banking association ("Mortgagee"), the owner and holder of a certain Mortgage and Security Agreement recorded in Official Records Book 5961, at Page 622, Assignment of Mortgage and Promissory Note recorded in Official Records Book 7196, at Page 4784 and Modification of Mortgage and Security Agreement, Collateral Assignment of Leases, Rents and Licenses, UCC-1 Financing Statement and Receipt of Future Advance recorded in Official Records Book 7196, at Page 4787 and Modification of Mortgage and Rents Assignment Agreement recorded in Official Records Book 8178, at Page 4242, all of the Public Records of Orange County, Florida (collectively, the "Mortgage"), which Mortgage encumbers the "Land," as defined in the Declaration of Condominium of Sunport Commerce Center Condominium to be recorded in the Public Records of Orange County, Florida ("Declaration"), does hereby consent to the foregoing Declaration.

Mortgagee makes no warranty or any representation of any kind or nature concerning the Declaration, any of its terms or provision, or the legal sufficiency thereof, and disavows any such warranty or representation as well as any participation in the development of Sunport Commerce Center Condominium (the "Condominium") and does not assume and shall not be responsible for any of the obligations or liabilities contained in the Declaration or other documents used in connection with the promotion of the Condominium. None of the representations contained in the Declaration or other documents shall be deemed to have been made by Mortgagee, nor shall they be construed to create any obligations on Mortgagee to any person relying thereon. Nothing contained herein shall affect or impair the rights and remedies of Mortgagee as set forth in the Mortgage or in the Declaration.

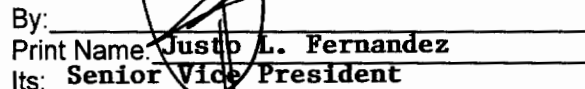
IN WITNESS WHEREOF, Mortgagee has caused this Consent of Mortgagee to be executed this 13 day of July, 2006.

Signed, sealed and delivered in the presence of:

  
Print Name: Maria Calderon

  
Print Name: Lauren M. Arias

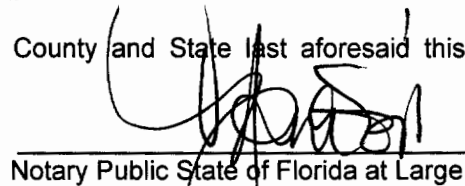
COMMERCEBANK, N.A., a national banking association

By:   
Print Name: Justo L. Fernandez  
Its: Senior Vice President

STATE OF Florida )  
COUNTY OF Dade ) SS:

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, the foregoing instrument was acknowledged before me by Justo L. Fernandez the SVP of COMMERCEBANK, N.A., a national banking association, freely and voluntarily under authority duly vested in him/her by said entity. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 13 day of July, 2006.

  
Notary Public State of Florida at Large

Typed, printed or stamped name of Notary Public

My Commission Expires:

MIADOCS 949215 1

