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# Sunrise and Sunset, A Condominium

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## DECLARATION OF CONDOMINIUM

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THIS DECLARATION is made as of the 13 day of March, 2007, by Condominiums of Carillon, LLC, a Florida limited liability company (the "Developer").

### Recitals:

- A. The Developer has constructed two buildings, with a total of 26 units, upon its property in Bay County, Florida, within a resort community known as Carillon Beach.
- B. The Developer wishes to subject the property to the covenants, restrictions, easements, charges and liens of this Declaration and to create a non-profit association with the power and duty of administering and enforcing the provisions of this Declaration.

### Declaration:

NOW, THEREFORE, the Developer hereby submits to condominium ownership pursuant to Chapter 718, Florida Statutes as amended from time to time (the "Condominium Act"), the property: in Bay County, Florida, as legally described on Exhibit A, along with all improvements, equipment, furnishings and fixtures owned by the Developer which are located on the property and intended for the use and enjoyment of the Condominium (which together with the real property shall be known as the "Property").

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3/9/07

The Property shall hereafter be subject to the provisions, restrictions, reservations, covenants, conditions and easements set forth in this Declaration of Condominium (the "Declaration"), which shall constitute covenants running with the land, binding upon the owners and lessees of any part of the Property, their heirs, successors and assigns forever.

# 1 Definitions

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● The following definitions apply wherever the capitalized terms appear in this Declaration. Additional terms that apply only to one article are defined the first time they appear.

1.1 Articles. "Articles" are the Articles of Incorporation of the Association, which are attached as Exhibit B to this Declaration.

1.2 Assessment. "Assessment" means each Owner's share of the amount required for the payment of the Common Expenses. An assessment may be either general or special as follows:

(a) General Assessment. The "General Assessment" is the amount charged to each Member to meet the Association's annual budgeted expenses, as described in paragraph 10.2.

(b) Special Assessment. A "Special Assessment" may be charged to each Unit for capital improvements or emergency expenses, in accordance with the provisions of paragraph 10.3.

1.3 Association. "Association" is the Sunrise and Sunset Condominium Association, Inc., a Florida nonprofit corporation, its successors and assigns. The Association, whose members are the Owners, is responsible for maintaining the Condominium and enforcing the Declaration.

1.4 Board. "Board" is the Board of Directors of the Association.

1.5 Bylaws. "Bylaws" are the Bylaws of the Association. The form of the initial Bylaws, as proposed, is attached as Exhibit C to this Declaration.

1.6 Common Elements. Common Elements means all of the Property except the Units, and shall include but not be limited to:

(a) All conduits, ducts, plumbing, wiring, utility areas, installations, apparatus and services which serve the various Units and all such facilities which serve the Common Elements, along with all necessary easements;

(b) All structural beams, posts and members within the Units and an easement of support in every portion of the Units that contribute to the support of the Building;

(c) The elevator, hallways and walkways that are not part of a Unit and all easements for egress and ingress to, within and across the Property; and

(d) All tangible personal property required for the maintenance and operation of this Condominium and for the common use and enjoyment of the Owners.

1.7 Common Expenses. Common Expenses mean:

(a) Expenses of administration, insurance, maintenance, operation, repair and replacement of the Common Elements and of the portions of the Units to be maintained by the Association (if any);

(b) All costs incurred by the Association in the provision of services required by this Declaration or by the Condominium Act;

(c) The costs of carrying out the powers and duties of the Association, including professional fees and expenses;

(d) Expenses declared Common Expenses by any provision of this Declaration, the Bylaws or, to the extent permitted, by resolution of the Board; and

(e) Any valid charge against the Property as a whole.

1.8 Common Surplus. Common Surplus means all amounts held by the Association in excess of estimated current operating expenses and common reserve funds.

1.9 Condominium. A "Condominium" refers to real estate, portions of which are designated for separate ownership (the "Units") and the remainder (the "Common Elements") is designated for common ownership solely by the Unit Owners. In this Declaration, the real property submitted to a condominium form of ownership by this Declaration is referred to as the Condominium.

1.10 Declaration. "Declaration" is this Declaration of Condominium for Sunrise and Sunset, a Condominium.

1.11 Developer. The "Developer" is Condominiums of Carillon, LLC, a Florida limited liability company, its successors and assigns.

1.12 Limited Common Elements. "Limited Common Elements" are those portions of the Common Elements that are reserved for the use of a certain Unit or Units to the exclusion of all other Units, as further described in Section 4.5.

1.13 Member. Each Owner is a "Member" of the Association, as provided in Article 6 of this Declaration.

1.14 Owner. "Owner" is the record owner, whether one or more persons or entities, of legal title to any Unit.

1.15 Property. Property means all of the property, real and personal, subjected to condominium ownership by this Declaration.

1.16 Registered Mortgagee. A "Registered Mortgagee" is any institutional lender that holds a bona fide first mortgage encumbering a Unit as security for the performance of an obligation and has registered in accordance with Section 16.2.

1.17 Unit. Unit means a part of the Condominium that is subject to exclusive ownership. The physical boundaries of a Unit are described in Section 4.4.

## 2. Description of Condominium

2.1 Name. The name of this Condominium is Sunrise and Sunset, a Condominium.

2.2 Graphic Exhibits. Exhibit A provides the survey of the Property, site plan of improvements and the unit designations. As shown on the site plan, the Condominium is subject to an easement for a portion of a parking lot that is part of Town Center.

2.3 Owners' Easement Each Owner shall have, and is hereby granted, and is deemed to have granted, the following perpetual, nonexclusive easements:

(a) Easement for unintentional encroachment of any Unit onto or within any other Unit.

(b) Easements for the supporting columns, foundations, roof and other components within all Units as originally constructed for the structural integrity of the building and that Owner's Unit.

(c) Easements within all Units for utilities, drainage, fuel supply tanks and lines, conduits, ducts, plumbing, wiring and any other facility for furnishing utility services, within those areas originally designed for such utilities apparatus.

(d) Easements within all Units for maintenance, repair and replacement of the benefited Unit and its associated utility lines as provided in the easement (c) above and for other necessary purposes, provided that access to any parcel shall be permitted under this easement only during reasonable hours except in case of emergency.

## 3. Carillon Beach Agreements

3.1 Carillon Beach Association. The condominium is within the resort community known as Carillon Beach, which is subject to the Declaration of Charter, Easements, Covenants and Restrictions for Carillon Beach, as recorded at Book 1338, Page 1212 of the Public Records of Bay County, Florida (as amended from time to time, the "Carillon Beach Declaration"). The property that includes the Condominium is

subject to the Carillon Beach Declaration in accordance with a Supplemental Declaration recorded at Book 1877, Page 1434 of the Public Records of Bay County, Florida. Under the Carillon Beach Declaration, Unit Owners are members of the Carillon Beach Owners' Association, Inc., a Florida nonprofit corporation organized as a homeowners' association under Chapter 720, Florida Statutes, and have access to all recreational facilities owned by the Carillon Beach Association. Unit Owners are required to pay assessments to the Carillon Beach Association, which are secured by a lien on the Unit.

3.2 Carillon Beach, Town Center Declaration. Within Carillon Beach, the Condominium is located in an area known as Town Center. In addition to the Carillon Beach Declaration described in Section 3.1, the Condominium is also subject to the Declaration of Charter, Easements, Covenants and Restrictions for Carillon Beach Town Center, as recorded at Book 1877, Page 1357 of the Public Records of Bay County, Florida (as amended from time to time, the "Town Center Declaration"). Among its provisions, the Town Center Declaration provides access easements for streets and parking and establishes a Design Review Board to approve the construction, modification and use of buildings. Town Center does not have a property owners' association. Instead, the common areas are owned and maintained by an entity known in the document as the Founder. The Founder is Carillon Beach Ltd., a Florida limited partnership; however, all or some of the Founder's rights may be assigned to another entity. Each Owner within Town Center pays assessments, secured by a lien on the Unit, to reimburse the Founder for the cost of maintaining the Town Center common areas.

3.3 Swimming Pool. The swimming pool adjacent to the Condominium is not part of the Condominium but is owned by a separate entity, Endless Summer of Carillon LLC (including any successors or assigns, the "Pool Manager"). The pool is maintained under an agreement, The Pool Maintenance Agreement, recorded in the public records of Bay County, Florida, prior to this Declaration, and all Residential Units of this Condominium and another condominium, the Carillon Beach Inn, A Condominium, are required to contribute to the cost of maintenance. The pool will be operated as a resort-style pool and may have commercial activities such as food and beverage service. The Pool Manager has the right at any time to convey the swimming pool to the Association, and the Association shall be required to accept the Pool for maintenance. Any such conveyance may be subject to easements reserved to the Pool Manager or its assigns for commercial activities and for other users.

3.4 Disclosure. The above summarizes the documents for informational purposes. The recorded instruments should be consulted for complete provisions.

## 4 Units and Appurtenances

4.1 Fee Ownership. Each Condominium Unit may be owned in fee simple and may be conveyed, transferred and encumbered in the same manner as any other parcel of real property, subject to the provisions of this Declaration and the Condominium Act. Each Condominium Unit shall include the following as

appurtenances, which shall pass with that Unit whenever it is conveyed, whether or not such appurtenances are separately described:

(a) Share of Common Elements. Each Unit shall have an undivided interest in the Common Elements, Limited Common Elements and the Common Surplus, and shall bear a portion of the Common Expenses\.

(b) Membership in the Association. Ownership of a Unit shall entitle the Owner to membership in the Association and an interest with all other Owners in the funds and assets of the Association.

(c) Easements. Each Unit shall have and is hereby granted, as an appurtenance, easements through or over all Common Elements (except Limited Common Elements) for ingress, egress and other uses as permitted by this Declaration.

No part of a Unit can be sold separately. However, this shall not prohibit the sale of a Unit to parties as tenants in common or joint owners.

4.2 Identification. The Units are identified graphically in Exhibit A. All Units shall be legally conveyed by a combination of building name (Sunrise or Sunset) and unit number (101,102, 201, etc.).

4.3 Share of Common Elements and Expenses. Each Unit shall have a share of the common elements, common expenses and common surplus based on square footage as follows:

All Units except 7 <sup>th</sup> Floor .....	2,319 s.f. ....	3.69% .....	total (24 Units) 88.56%
7 <sup>th</sup> Floor Units .....	3,623 s.f. ....	5.72% .....	total (2 Units) 11.44%
TOTAL.....			100.00%

4.4 Unit Boundaries. The following shall define the boundaries of a Unit:

(a) Upper Boundary. The upper horizontal boundary shall be the horizontal plane of the bottom of the undecorated finished ceiling.

(b) Lower Boundary. The lower horizontal boundary shall be the horizontal plane of the top of the undecorated finished floor.

(c) Vertical Boundaries. The vertical boundaries shall be the undecorated finished interior of the walls bounding the Unit.

(d) Balconies. The surface of any private balcony or patio serving that Unit shall be part of the Unit.

(e) Utilities. The Unit shall also include all lines, conduits and equipment for electricity, heating, air conditioning, water heating and other utilities serving only that Unit, wherever such utilities may be located.

(f) Excluded Area. The Unit shall not include structural beams, posts and members or conduits, ducts, plumbing, wiring, utility areas, installations, apparatus and services which serve other Units, the Common Elements or other parts of the building. Each Unit shall be subject to easements for support in every portion of the Unit that contributes to the support of the building, and easements for utility services to the various Units and to the Common Elements.

4.5 Limited Common Elements. Any balcony, lanai, or exterior stairwell accessible only from that Unit or intended only for the use of that Unit shall be a Limited Common Element for that Unit..

4.6 Parking. There is no parking included as part of the Condominium. Each Owner shall have the right to use Carillon Beach Town Center parking on a first-come, first-served basis.

## 5. Maintenance, Services and Repair

### 5.1 Generally.

(a) Association Responsibility. The Association shall maintain, repair and replace as necessary all parts of the Common Elements, all structural portions of the Limited Common Elements as originally constructed or as modified by the Association, and any other part of the Condominium which the Board determines shall be maintained, repaired or replaced by the Association, in accordance with uniform policies consistently applied.

(b) Owners' Responsibility. Each Owner shall keep all parts of his Unit and Limited Common Elements in good order and free from debris or hazards, shall maintain, repair and replace as necessary all parts of that Owner's Unit and Limited Common Elements (except any portion to be maintained by the Association) and shall be responsible for any damage to any other Unit, the Common Elements or Limited Common Elements or any other part of the building caused by his failure to maintain his Unit or otherwise arising out of any portion of his Unit required to be maintained by him. Each Owner shall promptly report to the Association any defects or necessary repairs for which the Association is responsible.

5.2 Specific Responsibilities. The following specific provisions shall apply:

(a) Balconies. The applicable Unit shall maintain the tile or other surface of any balcony accessible only from that Unit or intended only for the use of that Unit. The Unit Owner may replace the surface material subject to architectural review and Association approval of the materials to ensure that the materials will not retain water or



in any other way damage the structural integrity of the building. The Association shall maintain the railings and any exterior wall surfaces as part of the Common Expenses.

(b) Lanais. The applicable Unit shall maintain the tile or other surface of any lanai accessible only from that Unit or intended only for the use of that Unit. The Association shall maintain the railings and any exterior wall surfaces as part of the Common Expenses.

(c) Doors and Windows. The Association shall maintain the exterior surface of the door and exterior window and door trim. The Owner shall be responsible for maintaining any locks, hinges or any other mechanisms and repairing the window and/or door glass if necessary.

5.3 Management; Contracts. The Association may contract with any party for the performance of all or any portion of the management of the Association and the Association's maintenance and repair obligations. The cost of the contract shall be included within the General Assessment or Special Assessment as applicable.

5.4 Access. The Association shall have access to each Unit and Limited Common Elements as necessary for repair or maintenance of any Common Elements or Limited Common Elements, or when necessary to prevent damage to the Common Elements, Limited Common Elements or to another Unit or Units, or for specific portions of the Limited Common Elements or Unit to be maintained by the Association as provided by this Declaration.

5.5 Additional Services.

(a) Generally. The Association, by vote of the Board of Directors, may provide various services for the benefit of all owners that may be provided more economically or efficiently on an Association basis. Except in an emergency, the Board shall give Owners at least thirty (30) days notice of its intent to enter into such a contract, and if a majority of the Owners notify the Association in writing that they oppose such a contract, the Board shall not enter into the contract. The cost of such service may be included in Common Expenses.

(b) Cable Television. The Association may enter into a bulk contract for a master antenna television system, cable television service, internet service provider or any other comparable service for the Units, the cost of which shall be a common expense.

(c) Agent for Owner. The Association also may, but is not obligated to, act as agent for an Owner, if so requested by that Owner, to contract for routine maintenance and other services not required to be provided by the Association. The terms and conditions of all such contracts shall be at the discretion of the Board.

5.6 Interpretation and Policies. The Association may make policies concerning Association and Owner responsibility for maintenance based on reasonable interpretations of this Article 5, consistently applied.

## 6. Alteration and Improvements

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6.1 Modifications by Association. The Association may make capital improvements to the Common Elements, may purchase additional property to be added to the Common Elements or to be owned as Association Property, and may modify uses of the Common Elements. Such improvements shall be approved by majority vote of the Board or if requested by a majority of the Unit Owners of the affected Condominium. If the capital improvement is considered substantial under Section 9.4, such expenses must also be approved in accordance with that section.

### 6.2 Modifications by Unit Owner.

(a) Balconies and Porches. Glass, screen or other enclosure of the balconies and porches is not permitted. No porch furniture, banners, or other furnishings shall be visible above the railing from the ground outside the building. Wind chimes or other noise-producing furnishings are not permitted. No ceiling fans shall be installed by the Owner.

(b) Window Coverings. To provide a uniform appearance, the Association or the Design Review Board established by the Town Center Declaration may require that all window coverings visible from the exterior shall be white and may also require that window coverings be plantation shutters or wood blinds of specified size and style.

(c) Other Modification by Owner. An Owner shall not paint, decorate or otherwise change any other portion of the Unit, Limited Common Elements or any other portion of the building that is visible from outside the Unit, without prior written approval of the Association. A copy of plans for any such work prepared by an architect licensed to practice in Florida shall be filed with the Board and approved by a 75% vote prior to the start of any such work, and all work must be performed in conformance with the approved plans.

6.3 Combination, Subdivision of Units. Division or combination of Units is not anticipated. However, an Owner or Owners may divide or combine one or more Units or relocate the boundaries between two Units provided the following conditions are satisfied:

(a) The conditions of section 6.2 are satisfied as to any physical modifications,

(b) The total interests in the Common Elements and Common Expenses allocated to the resulting Unit or Units shall be adjusted between the affected Units as the affected Unit Owners deem appropriate. The total resulting interests shall equal the interests allocated to the Unit or Units before the modification and shall be subject to the approval of the Board, acting reasonably.

(c) An amendment to this Declaration is certified by the Board to indicate compliance with this Section and approval of Owners holding a majority of the voting

interests. The Owner of the Unit or Units being modified and all record owners of liens on those Units must join in the execution of the amendment. The amendment shall be executed and recorded in the manner described in Article 13 ("Amendments to Declaration"), and in compliance with the Condominium Act. The amended Declaration shall show the configuration of the new Unit or Units, the Unit designations, and the interests in the Common Elements and Common Expenses applicable to such Unit or Units.

6.4 Safety. Neither an Owner or the Association nor any other party shall do anything that will jeopardize the safety or soundness of the building or impair any of the easements established herein without first obtaining unanimous approval in writing of the Owners and Registered Mortgagees of all Units affected by such work.

6.5 Carillon Beach Town Center. Any modification visible from outside the Condominium shall also be subject to review under the Carillon Beach Town Center Declaration as described in Section 3.2.

## 7 Association Membership and Operation

7.1 Members. Every Owner shall be a mandatory Member of the Association. Membership shall be appurtenant to and may not be separated from title to any Unit.

7.2 Assignment of Votes. On all condominium matters, each Unit shall have a voting interest proportional to that Unit's share of the Common Elements.

7.3 Exercise of Vote. When more than one person holds an interest in any Unit, all such persons shall be Members. However, the number of votes for that Unit shall not be increased, and the Members must determine among themselves how the Unit's vote may be exercised. Corporations, partnerships and other entities shall notify the Association of the natural person who shall be considered a Member of the Association and exercise its vote.

7.4 Record Keeping. The Board shall keep a record of all meetings, both of the Board and of the Association. For each action taken, the record shall state the vote and a description of the action approved, and, where applicable, the reasons why the action was considered necessary and a summary of the information on which the decision was based. The record shall be available for inspection by any Member.

7.5 Decision Making by Owners. As a convenient reference and not as a limitation, actions requiring a vote of the Members, or assent in writing, include the following:

- Spending reserves other than as designated..... Section 9.2
- Ratification of expenditures for capital improvements ..... Section 9.4
- Repeal of Rules and Regulations adopted by the Board ..... Section 12.9
- Amendment of the Declaration ..... Section 13.1
- Termination of the Declaration ..... Section 14.1

Purchase of Dissenting Owner's Units ..... Section 14.2

7.6 Calling Association Meetings. The Association shall call an annual meeting if required by the Condominium Act, and may call additional meetings for informational purposes or whenever any action is required by this Declaration to be taken by vote or assent in writing of the Members.

7.7 Notice. Notice of all meetings must be given to Members in accordance with the Bylaws and the Condominium Act.

7.8 Multicondominium Association. The Association may become a multicondominium association, which maintains other condominiums in addition to this Condominium. In such an event, each condominium shall have a separate budget for condominium maintenance, although general administration and management expenses may be divided among the condominiums on a per-unit basis. The Developer hereby reserves the right but not the obligation to create additional condominiums to be maintained by the Association.

7.9 Additional Provisions. Additional provisions concerning the operation of the Association and the Board are contained in the Articles and Bylaws. Operation of the Association is at all times subject to the provisions of the Condominium Act so that in the event of a conflict between the Declaration, Articles or Bylaws, the Condominium Act shall govern.

## 8 Board of Directors

8.1 Board's Responsibility. Except as specifically provided in this Declaration or the Condominium Act, the Board has been delegated the power, and shall have the authority to act on behalf of the Association and to make all decisions necessary for operation of the Association, enforcement of this Declaration and care of the Common Elements. The Board shall be elected as provided in the Bylaws.

8.2 Compensation; Qualification. Directors shall receive no compensation for their services unless expressly provided for in resolutions adopted by the Members. A Board member does not need to be the Owner of a Unit.

8.3 Open Meetings. Meetings of the Board shall be open to all Owners. Notice of all meetings shall be posted as required by the Bylaws and the Condominium Act.

8.4 Additional Provisions. Additional provisions concerning the election and operation of the Board are contained in the Articles and Bylaws.

## 9 Association Budget

9.1 Fiscal Year. The fiscal year of the Association shall begin January 1 of each year and end on December 31 of that year, unless the Board selects a different fiscal year.

## 9.2 Budget Items.

(a) Recurring Expenses. The budget shall estimate total expenses to be incurred by the Association in carrying out its responsibilities. These expenses shall include, without limitation, the cost of wages, materials, insurance premiums, services, supplies and other expenses for the rendering of all services required or permitted under this Declaration. The budget shall also include reasonable amounts, as determined by the Board, for working capital. Fees for professional management of the Association, legal counsel and other professional services may also be included in the budget.

(b) Reserves. Unless waived by majority vote of the Members in accordance with the Condominium Act, the Association shall build up and maintain adequate reserves, which shall be included in the budget and collected as part of the annual General Assessment. If the reserves are inadequate for any reason, including nonpayment of any Member's assessment, the Board may at any time levy an emergency assessment in accordance with the provisions of Section 10.3 ("Special Assessment").

(c) Limited Common Elements. The budget shall assign the cost of maintenance of the Limited Common Elements as provided in Section 5.2.

9.3 Preparation and Approval of Annual Budget. The Board shall adopt a budget for the coming year and set the annual General Assessments at a level sufficient to meet the budget. The Bylaws set out the requirements for notification of Members concerning the meeting at which the Board shall consider the budget. The Board's failure or delay in preparing or adopting the annual budget for any fiscal year, or review of the budget under paragraph (b), shall not waive or release a Member's obligation to pay General Assessments whenever the amount of such assessments is finally determined. In the absence of an annual Association budget each Member shall continue to pay the assessment at the rate established for the previous fiscal period until notified otherwise.

9.4 Capital Improvements. Substantial capital improvements to the Common Elements (including the purchase of additional property, easements or other use rights) approved by the Board must be ratified by the Members as follows:

(a) Majority Vote. If the cost of the improvement is more than six percent (6%) of the Association's annual budget, or if, when added to other capital improvements for the fiscal year, totals more than ten percent (10%) of the Association's annual budget, the capital improvement must be approved by majority vote of the Members.

(b) Additional Vote. If the cost of the improvement is more than twenty percent (20%) of the Association's annual budget, or if, when added to other capital improvements for the fiscal year, totals more than twenty five percent (25%) of the Association's annual budget, the capital improvement must be approved by a 75% vote of the Members.

If the Members approve the substantial capital improvement, the Board shall determine whether to pay the cost from General Assessments or Special Assessment. Any repair or

replacement of existing improvements with materials of similar cost and utility shall not be considered a capital improvement. Improvements to Limited Common Elements shall be approved by applicable votes of the Owners served by the Limited Common Element.

9.5 Accounts. All funds collected by the Association shall be maintained separately in the Association's name. For investment purposes only, reserve funds may be commingled with operating funds. Commingled operating and reserve funds shall be accounted for separately, and a commingled account shall not, at any time, be less than the amount identified as reserve funds.

## 10. Assessments

10.1 Obligation for Assessments. Each Unit is subject to Assessments by the Association for the improvement, maintenance and operation of the Condominium, including the management and administration of the Association and other Common Expenses as set forth in this Declaration. The Developer, for each Unit owned within the Condominium, hereby covenants, and each Owner of any Unit by acceptance of a deed or other transfer instrument, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following (to be known collectively as "Assessments"):

- (a) General Assessments for expenses included in the budget, and
- (b) Special Assessments for the purposes provided in this Declaration,

together with a late fee and interest, as established by the Board, and cost of collection when delinquent, including a reasonable attorney's fee whether or not suit is brought. Upon default in the payment of any one or more installments, the Board may accelerate the Assessment to the greatest extent permitted under the Condominium Act.

10.2 General Assessments. The Board shall set the dates such assessments shall become due and may provide for collection of assessments monthly or, if allowed by statute, in quarterly, semiannual or annual installments.

10.3 Special Assessment. In addition to the General Assessment, the Board may levy in any fiscal year a Special Assessment applicable to that year and not more than the next four succeeding years as follows:

- (a) Capital Improvements. Any substantial capital improvement which has been approved in accordance with Section 9.4 ("Capital Improvements") or any capital improvement not required to be approved by the Members may be paid by Special Assessment.
- (b) Emergency Assessment. By a 75% vote, the Board may impose a Special Assessment for any unusual or emergency maintenance or repair or other expense which this Declaration requires the Association to pay (including, after depletion of reserves, any necessary repair of the Common Elements).

#### 10.4 Effect of Nonpayment of Assessment; Remedies

(a) Late Fees, Interest. Any Assessment not paid within five (5) days after the due date shall bear interest at the highest rate allowed by law or at such lower rate as determined by the Board, and may be subject to a late fee as determined from time to time by the Board.

(b) Personal Obligation. Any and all Assessments (whether General or Special), together with any late fee, interest and cost of collection when delinquent, including a reasonable attorney's fee whether or not suit is brought (collectively, the "Unit Obligation") shall be the personal obligation of the person or entity who was the Owner of such Unit at the time when the assessment was levied, and of each subsequent Owner. Each Owner of a Unit, by acceptance of a deed or other transfer document, whether or not it shall be so expressed in such deed or transfer document, is deemed to covenant and agree to pay the Association the Assessments established or described in this Article.

(c) Creation of Lien. The Unit Obligation shall be a continuing lien upon the Unit against which the Unit Obligation is made. This lien shall be in favor of the Association for the benefit of all Owners, which shall have all remedies available under the Condominium Act.

(d) Foreclosure of Lien. The Association may bring an action at law against the Owner or Owners personally obligated to pay the Unit Obligation, or may foreclose the lien, or both. The Association, acting on behalf of the Owners, shall have the power to bid for any interest in any Unit foreclosed at such foreclosure sale and to acquire, hold, lease, mortgage and convey the same.

(e) Owner's Acceptance. Each Owner, by acceptance of title to a Unit, hereby expressly vests in the Association the right and power to bring all actions against such Owner personally for the collection of the Unit Obligation as a debt and to enforce the Unit Obligation by all methods available for the enforcement of liens, including foreclosure brought in the name of the Association in a like manner as foreclosure of a mortgage lien and all rights and remedies under the Condominium Act. Each Owner hereby expressly grants to the Association a power of sale in connection with such lien. No Owner may waive or otherwise escape liability for the Unit Obligation by abandonment of the Unit.

(f) Subordination of the Lien to Mortgages. The lien of the Unit Obligation shall not be subordinate to the lien of any Mortgage now or hereafter placed upon the Unit except to the extent, if any, required by the Condominium Act.

(g) Other Remedies. To the extent allowed by law, the Association may prohibit the leasing of a Unit for any period during which any part of the Unit Obligation remains unpaid.

10.5 Certificate of Payment. The treasurer of the Association, upon request of any Owner, shall furnish a certificate signed by a member of the Board stating whether any

assessments are owed by that Owner. Such certificate, when co-signed by the secretary of the Association, may be relied upon by a good faith purchaser or mortgagee as conclusive evidence of payment of any assessment therein stated to have been paid. The Association may charge a reasonable fee for this service.

## **11** Insurance, Damage and Condemnation

11.1 Types of Coverage. The Board shall review types and limits of coverage at least once each year. The Condominium Act, which is amended frequently, includes significant provisions concerning the types of coverage the Association must carry and should be consulted. This Declaration reflects the Condominium Act as written at the time of recording but does not include all of the provisions of the Condominium Act. Recognizing that coverage may at times be difficult or unduly expensive to obtain, the Association may utilize any changes to the Condominium Act that reduces the amount of necessary coverage or allows self-insurance or other alternative methods.

(a) Property Insurance. The Board shall use its best efforts to obtain and maintain property insurance on that portion of the buildings and other improvements upon the Property for which the Association is responsible, all personal property included in the Common Elements, and such other parts of the Property as may be required by the Condominium Act or approved by the Board. To the extent reasonably available, such insurance shall provide extended coverage, vandalism, malicious mischief and windstorm endorsements for full replacement value.

(b) Public Liability. The Board may obtain appropriate public liability insurance in such limits as the Board may from time to time determine, insuring against any liability arising out of, or incident to, the ownership and use of the Common Property. All other owners of property within the Building shall be named as additional insureds. Such insurance should be issued on a comprehensive liability basis and should contain a "severability of interest" endorsement, which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association, the Board or other Owners.

(c) Director Liability Insurance. The Board may obtain liability insurance insuring against personal loss for actions taken by members of the Board in the performance of their duties. Such insurance shall be of the type and amount determined by the Board in its discretion.

(d) Bonding. The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the Association as required by the Condominium Act.

(e) Other Coverage. The Board shall obtain and maintain workman's compensation insurance if and to the extent necessary to meet the requirements of law, any other type of insurance coverage required by law and such other insurance as the Board may determine or as may be requested from time to time by a majority of the Owners. The Board may agree to obtain additional insurance coverage to comply with the



requirements of the Federal National Mortgage Association, other mortgagees or guarantors of mortgages, and so long as the stated mortgagee or guarantor has an interest in a Unit, the Association shall keep the agreed coverage in effect.

(f) Owner's Personal Coverage. Owners are encouraged to obtain at their own expense additional insurance coverage for their Condominium Units, for their own personal property, the contents and portions of the Units for which they are responsible and for personal liability. Unless required by the Condominium Act, the Association insurance policy will not normally insure against damage to coverings for walls, ceilings and floors, furniture or other personal contents. In addition, the Association insurance policy may have a substantial deductible before coverage is available.

#### 11.2 Association Rights and Responsibility.

(a) Policies. The Association shall hold the master policies of all insurance coverage required or authorized to be obtained by the Association, and copies of all endorsements. A copy of each policy in effect shall be made available for inspection by Owners at reasonable times. If requested to do so by any Registered Mortgagee, the Association shall provide evidence of payment and arrange for the issuance of a certificate of mortgagee endorsement.

(b) Insurance Proceeds. All proceeds of insurance policies purchased by the Association shall be payable to the Association, which shall hold the proceeds in trust to be distributed as provided herein. The Association is irrevocably appointed agent for each Owner and for each mortgagee to adjust all claims arising under insurance policies purchased by it and to execute and deliver releases upon the payment of claims.

(c) Condemnation. If all or part of the Common Elements is taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be paid to the Association. The Board shall have the right to act on behalf of the Association with respect to the negotiation and litigation of the taking or condemnation affecting such property.

#### 11.3 Repair and Reconstruction after Damage or Condemnation.

(a) Responsibility. Any damage to the Condominium resulting from fire, storm or other event or from condemnation shall be promptly repaired substantially according to the specifications as they existed before the damage, unless a majority of the Board and Owners representing 75% of the voting interests approve modification of the design or unless the Condominium is terminated in accordance with paragraph (d) of this section. The responsibility for reconstruction or repair after damage or condemnation shall be the same as for maintenance and repair of the Condominium generally. However, the Association shall be responsible for repairing any portion of the Condominium that is insured by the Association, including any deductible.

(b) Common Property. If fire, storm or other damage or condemnation damages or destroys any of the improvements on the Common Elements, the Board shall arrange for and supervise the prompt repair and restoration of such improvements

substantially in accordance with the plans and specifications under which the improvements were originally constructed, or any modification approved by the Board. The Board shall obtain funds for such reconstruction first from the insurance or condemnation proceeds, then from reserves for the repair and replacement of such improvements, and then from any special assessments that may be necessary after exhaustion of insurance and reserves.

(c) Units. Funds to repair damage for which the individual Owner is responsible shall be disbursed directly to that Owner unless there is a mortgagee endorsement as to any part of the insurance proceeds, in which event such insurance proceeds shall be disbursed jointly to the Owner and the mortgagee. All such disbursements shall be received in trust for use in the repair and replacement of the damaged Unit.

(d) Termination. If damage or condemnation causes damage equal to more than one-half of the total insurable value of the Condominium, this Condominium may be terminated by consent in writing of 75% of the Unit Owners if such consents are collected within six months of the loss.

## 12. Use Restrictions

12.1 Residential Use. Each Unit shall be used as a residential dwelling. An Owner may conduct a legal business from his Unit so long as no noise or fumes are generated, there are no employees other than those residing in the Unit, the address of the business is not advertised, no signage is visible from outside the Unit, and the business is permitted by zoning. However, restrictions on the property prohibit operation of any real estate brokerage service.

12.2 Common Elements. The Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Owners, tenants and guests.

12.3 Signs. No signs shall be displayed from a Unit or on the Common Elements.

12.4 Leasing. Units may be rented, subject only to reasonable rules and regulations as promulgated by the Association, which may be modified from time to time. There shall be no minimum lease term. The Association may prohibit the leasing of any Unit while the Owner is in default in the payment of Assessments. If the Unit is leased in violation, the Association may attach rentals and may evict the tenant as if it were a tenant violation under paragraph 12.10(d). The Board must approve all rental companies and may refuse to approve a rental company in its reasonable discretion. Once granted, approval may be rescinded if the rental company has repeated tenant violations or fails to cooperate with Condominium policies.

12.5 No Time Sharing. No time-share ownership of Units is permitted. However, ownership of a unit may be divided into up to four shares.

12.6 Nuisances; Other Improper Use.

(a) Nuisances, Unlawful Use. No nuisance or immoral, improper, offensive or unlawful use shall be permitted to exist or operate on any Unit or Common Elements. All laws, building codes, orders, rules, regulations or requirements of any governmental agency having jurisdiction shall be complied with, by and at the sole expense of the Owner or the Association, whichever shall have the obligation to maintain or repair the affected portion of the Condominium.

(b) Insurance. Nothing shall be done or kept on any Unit or the Common Elements that will increase the rate of, or result in cancellation of, insurance for the Condominium or any other Unit, or the contents thereof, without the prior written consent of the Association.

(c) Soliciting. No soliciting will be allowed at any time within the Condominium.

12.7 Pets. Most Owners' pets are welcome so long as the pets don't cause an unsafe condition or unreasonable disturbance or annoyance.

(a) Types of Pets Permitted. Pets are limited to cats, dogs and birds, along with animals weighing less than five pounds that are not specifically prohibited by rule, that are contained inside the home in an aquarium, terrarium or cage and that are not poisonous or otherwise hazardous if they were to escape. The Association may further regulate the number and size of pets and may prohibit the keeping of particular breeds of dogs or other animals that it deems to create unreasonable danger or nuisance. If the Association or any governmental unit finds cats to be a threat to wildlife, the Association may by rule prohibit or restrict cats.

(b) Pet Behavior. Pets shall not be permitted to roam loose outside the Parcel, and shall not create unreasonable noise or odor. Owners shall collect and dispose of animal waste. The Association may designate specific areas within the Common Areas where pets may be walked, may prohibit pets on other areas, and may require pets to be on leash.

(c) Tenants. Tenants are not permitted to have pets.

12.8 Attractiveness and Safety of Units.

(a) Owner's Responsibility. Each Owner shall keep all parts of his Unit and Limited Common Elements in good order and repair and free from debris.

(b) Clotheslines; Railings. No clothesline, rack or other clothes-drying apparatus shall be permitted in any part of a Unit where it may be visible from the Common Elements or outside the Building. Towels and other items are not permitted on the balcony railings.

(c) Garbage and Trash Containers. All garbage and trash containers must be placed and maintained in accordance with rules and regulations adopted by the Board.

(d) Fuel Storage Tanks. No fuel or gas storage tanks may be permitted in any Unit, except that the Board may permit a small gas tank for gas barbecues in an area of the Unit or Limited Common Elements specifically approved by the Board.

12.9 Rules and Regulations. The Board may from time to time adopt rules or amend previously adopted rules and regulations governing the details of the operation, use, maintenance and control of the Units, Common Elements and any facilities or services made available to the Owners. Rules and Regulations shall take effect immediately upon approval by the Board, or at a later date selected by the Board. If requested by any Member, an Association meeting may be called and any Rule or Regulation may be repealed by majority vote of the Members. A copy of the Rules and Regulations adopted from time to time shall be furnished to each Owner.

12.10 Enforcement.

(a) Owner's Responsibility. Each Owner, family members of Owners and Owners' guests and tenants shall conform and abide by the covenants contained in this Declaration and any Rules and Regulations which may be adopted from time to time by the Board. Each Owner shall be responsible for assuring such compliance, and any violation by family members, guests or tenants may be considered to be a violation by the Owner.

(b) Board Responsibility. The Board shall hear any complaints of violations of these Covenants or Rules and Regulations adopted by the Board. Any action taken by the Board under this Section 12.10 shall require approval of 75% of all Board members other than the Owner or Owners alleged to be in violation, or a majority of the entire Board, whichever is greater.

(c) Notice, Hearing and Fines. Any Owner who is believed to be in violation shall be given notice and an opportunity to be heard. Subject to provisions of the Condominium Act, the Board shall, after the hearing, have the right to charge fines to the greatest extent permitted by the Condominium Act. However, the primary goal of the Board is not to punish but to conciliate and resolve problems. The Board may suggest or approve dispute resolution agreements and withhold the requirement of paying a fine if the agreement is honored.

(d) Tenant Violations. If a tenant is believed to be in violation of the Covenants or Rules and Regulations, the Board shall notify the Owner and tenant and provide an opportunity for hearing. If the Board determines after notice and opportunity for hearing that a tenant has violated the Covenants or Rules and Regulations, the Board may assess fines against the Owner as provided in paragraph (c). In addition, if the violation continues for ten days after notice to the Owner of the Board's findings, or if the tenant materially violates the Covenants or Rules and Regulations more than once in any one-year period, the Association, by a 75% vote of the Board, shall have the right to evict the tenant. Each Owner by acceptance of a deed irrevocably appoints the Association as

its agent and attorney-in-fact in such an eviction action. All costs related to such action shall be charged to the Owner. Any Owner whose tenant or tenants (whether under one lease or different leases) violate the Covenants or Rules and Regulations three times in any one-year period may be prohibited from further leasing of his Unit for a period of up to one year.

(e) Pets. After notice and hearing, the Board may find that a pet causes an unsafe condition or unreasonable disturbance and may require the Owner or tenant to take steps to cure or limit the problem. Every reasonable attempt should be made to find a solution that does not require removal of the pet. However, if such steps are ineffective, if the Owner or tenant fails to cooperate or if the pet is considered to create an unsafe condition, the Board may require that an Owner or tenant permanently remove the pet from the Condominium.

(f) Additional Remedies. All remedies listed in this section are non-exclusive and may be applied cumulatively. The Association shall also have the right to bring suit to enforce the covenants and Rules and Regulations, as described in Article 15.

## 13. Amendments to Declaration

### 13.1 Method of Amendment.

(a) Generally. Except as specifically provided otherwise, this Declaration may be amended at any time by consent in writing of Members holding two-thirds of the total voting interests of the Association. A meeting is not required to obtain the consents. After adoption of any such amendment, the president and secretary of the Association shall execute a certificate meeting the requirements of the Condominium Act.

(b) By Board. The Board by majority vote may amend this Declaration without the consent or joinder of any party (i) to conform to the requirements of the Federal Home Loan Mortgage Corporation, Veterans Administration, Federal National Mortgage Association or any other generally recognized institution involved in the purchase and sale of home loan mortgages, (ii) to conform to the requirements of institutional mortgage lenders or title insurance companies, or (iii) to correct errors or to clarify any provision of this Declaration.

(c) Unit Shares. No amendment shall change any Unit's appurtenant share in the Common Elements unless 75% of all Owners, including the affected Unit, and any Registered Mortgagee of that Unit join in the execution of the amendment.

(d) Effect. Any amendment adopted in accordance with this Article shall become effective upon recordation in the public records of Bay County, Florida.

13.2 Consent of Mortgagees. This Declaration contains provisions concerning various rights, priorities, remedies and interests of mortgagees. No amendment or modification of this Declaration impairing such rights, priorities, remedies or interests of a mortgagee shall be effective as against any mortgagee without the prior written consent of a majority of the Registered Mortgagees. Any such required consent shall be given promptly and

shall not be unreasonably withheld. Any consent not given or denied within 30 calendar days of receipt thereof shall be deemed given for purposes hereof. This section shall not be construed as a limitation upon the rights of the Association or the Owners to make amendments that do not directly and adversely affect mortgagees.

## 14. Termination

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14.1 Methods. The Condominium may be terminated in any of the following ways:

(a) Destruction. If following damage or condemnation it is determined in accordance with Section 11.3 that the improvements will not be reconstructed, the Condominium will be thereby terminated.

(b) Agreement. The Condominium may be terminated at any time by the approval in writing of all the Owners and Registered Mortgagees.

(c) Purchase of Dissenting Owner's Units. The Condominium may be terminated by agreement of 75% of the Unit Owners and purchase of the dissenting Owner's Units, in accordance with Section 14.2.

### 14.2 Purchase of Dissenting Owner's Units

(a) Approval. If members holding a majority of votes in the Association desire termination, they may make a written request to the President of the Association for a meeting of the members to consider termination. Notice of the meeting shall be furnished as provided in the Bylaws. If the termination is approved at the meeting by a vote of Owners representing not less than 75% of the voting interests, the approving Owners shall have an option to buy all (but not less than all) of the Units of the non-approving Owners for the period ending ninety (90) days after the date of the meeting. Approval of termination by an Owner at such a meeting shall be irrevocable until the expiration of the option, and if the option is exercised, the approval shall be permanently irrevocable.

(b) Exercise of Option. The purchase option shall be exercised by delivery of the following instruments in person or by registered mail to each Owner of the Units to be purchased:

(i) A certificate executed by the president and secretary of the Association certifying that the motion to terminate the Condominium was approved in accordance with this Article and that the option to purchase is being exercised as to all Units owned by dissenting Owners. The certificate shall state the names of the Owners exercising the option, the Units owned by them, and the Units being purchased by each of them.

(ii) An agreement to purchase the Unit of the Owner receiving the notice, upon the terms provided in this Article, signed by the purchasing Owner or Owners.

(c) Price. The price for each Unit purchased pursuant to this Article shall be its fair market value determined by agreement between the seller and purchaser within thirty (30) days from the delivery or mailing of the exercise of the option. In the absence of agreement, the price shall be determined by arbitration. If the parties cannot agree on an arbitrator, each party shall select an MAI-certified real estate appraiser. If the appraisers cannot reach agreement upon the market value of the Condominium Unit, then the market value shall be the average of the values reached by the two appraisers. The expense of the arbitration shall be paid by the purchaser.

(d) Closing. The sale price shall be paid in cash or upon terms approved by the seller, and the sale shall be closed within thirty (30) days following the determination of the sale price. A judgment of specific performance of the purchase based upon the agreed sales price or determination of the arbitrators may be entered in any court of competent jurisdiction. The closing of the purchase of all of the Units subject to the option shall terminate the Condominium without further act except the filing of the certificate described in Section 14.3.

(e) Limitation. If necessary for this section's validity under the Rule Against Perpetuities (§689.22, Florida Statutes) or similar law, this option shall expire 90 years from the recording of this Declaration, or 21 years from the death of the last linear descendent of the original purchasers of Units who was alive at the time of recording of this Declaration, or whatever greater time period allowed by law.

14.3 Certificate. The termination of the Condominium in any of the ways described in this Article shall be evidenced by a certificate of the Association executed by the president and secretary in the same manner as for an amendment of this Declaration. The termination shall become effective upon recording of the certificate in the public records of Bay County, Florida.

14.4 Shares of Owners after Termination. After termination of the Condominium, the Owners shall own the Property and all assets of the Association, including the right to insurance proceeds, if any, as tenants in common in undivided shares. The undivided share assigned to each Unit shall be based on the fair market value of the Unit, relative to the other Units in the Condominium, immediately prior to the termination and any damage or other event precipitating the termination. Relative fair market value shall be determined by an MAI-certified real estate appraiser selected by the Board based on the square footage, floor plan and location of each Unit, but not on any improvements made by the Unit Owner. Owners' respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Owners. Following termination, any Owner may request distribution to him of his proportionate share of all liquid assets of the Association, but Owners shall not have the right to partition the Property and, by their acceptance of their Units under this Declaration, shall be deemed to have waived such right to partition.

## 15. Compliance with Declaration; Enforcement

15.1 Owner's Responsibility. Each Owner, family members of Owners and Owners' guests and tenants shall conform and abide by this Declaration and any Rules and Regulations which may be adopted from time to time by the Board. Each Owner shall be responsible for assuring that all persons using that Owner's Unit by, through or under him so comply.

15.2 Non-binding Arbitration. Section 718.1255 of the Condominium Act provides that certain types of disputes be submitted for nonbinding arbitration before the institution of court litigation. In addition, the use of mediation is encouraged.

15.3 Enforcement. After compliance with any applicable provision of the Condominium Act concerning arbitration, the Association, the Developer or any Owner may bring an action against any person, persons or entity for damages, specific performance, declaratory decree or injunction, or any other remedy at law or in equity to enforce this Declaration or the Rules and Regulations. The Board shall be empowered to bring suits on behalf of the Association.

15.4 No Waiver. Failure to enforce any provision of this Declaration or the Rules and Regulations shall not be deemed a waiver of the right to do so at any time thereafter.

15.5 Association's Legal Fees. Any and all costs, including but not limited to attorneys' fees and court costs, which may be incurred by the Association in the enforcement of any of the provisions of this Declaration, whether or not suit is brought, shall be charged to the Owner against whom such action was taken.

## 16. Mortgagees

16.1 Register of Mortgagees. Any institutional lender that holds a bona fide first mortgage encumbering a Unit as security for the performance of an obligation may notify the Association directly of the existence of its mortgage lien on a Unit and provide information for receiving notice from the Association. The Association shall maintain a register of all mortgagee information that it receives. The term "institutional lender" specifically includes a bank, savings and loan association, a mortgage lending company, an insurance company, the Federal National Mortgage Association or similar agency and the Developer.

16.2 Mortgagees' Rights. In addition to any requirements of the Condominium Act, any Registered Mortgagee may, upon written request to the Association:

(a) Be furnished a copy of the most recent financial statement and annual report of the Association;

(b) Be given notice of any default of 60 days or more in the payment of Assessments with respect to the Unit encumbered by the Mortgage;



(c) Be given an endorsement or certificate evidencing the insurance coverage maintained on the Property by the Association, reflecting the Registered Mortgagee's interest therein, and requiring that the Registered Mortgagee be given notice of any cancellation of that insurance coverage;

(d) Be permitted to examine the books and records of the Association upon reasonable notice during ordinary business hours;

(e) Be provided current copies of the Declaration, Articles, Bylaws and rules and regulations concerning the Property, upon payment to the Association of its cost of copying such documents;

(f) Be given written notice of any damage, condemnation or eminent domain proceedings which affect a material portion of the Common Elements, or the Unit encumbered by the Registered Mortgagee's lien; and

(g) Be given written notice of any pending proposal to terminate the Condominium, or any proposed amendment to the Declaration, Articles or Bylaws that requires consent of a specified percentage of registered mortgage holders.

# 17. Developer's Rights

17.1 Right to Own and Sell. Notwithstanding any other provision of this Declaration, the Developer is irrevocably empowered to sell Units to any person or entity approved by it. The Developer shall have the right to transact on the Property any business necessary to accomplish the sale, lease or rental of Units, including but not limited to the right to maintain models, have signs, maintain an office and employees on the Property and use the Common Elements. A sales and rental office, model Units, signs and all items pertaining to sale and rentals shall not be considered Common Elements but shall remain the property of the Developer.

17.2 Rights to Modify Units prior to sale. The Developer may elect to change the interior floor plan of any Unit prior to the sale of such Units by the Developer and may amend this Declaration to reflect such changes.

17.3 Prohibited Actions. So long as the Developer is the owner of record title to any Unit held for sale in the ordinary course of business, the following actions require approval in writing from the Developer:

(a) Assessment of the Developer as a Unit Owner for capital improvements, or

(b) Any action by the Association that would be detrimental to the sales of Units by the Developer; provided, however, that an increase in Assessments without discrimination against the Developer shall not be deemed detrimental.

17.4 Election of Board. The Developer shall select the initial Board and reserves the right to select a majority of the Board to the greatest extent allowed by law. At the time

of the recording of this Declaration, that statute entitled Unit Owners other than the Developer to elect a majority of the directors at the first to occur of the following:

- (a) Three years after 50 percent of the Units have been conveyed to purchasers,
- (b) Three months after 90 percent of the Units have been conveyed to purchasers,
- (c) When all of the Units have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business,
- (d) When some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business, or
- (e) Seven years after the recording of the Declaration.

The Developer shall select the remaining directors, and shall have the right to select at least one director so long the Developer holds at least 5% of the Units for sale in the ordinary course of business.

# 18. General Provisions

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18.1 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform and consistent plan for the development and operation of a residential condominium of the highest quality. In the event of a conflict between this Declaration and the Articles or Bylaws, this Declaration shall govern. If the Articles and Bylaws conflict, the Articles shall govern.

18.2 Invalidity. The invalidity of any part of this Declaration shall not impair or affect the validity or enforceability of the rest of the Declaration, which shall remain in full force and effect.

18.3 Notices. Unless otherwise stated herein, any notice required to be sent to the Owner of any Unit under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, or hand delivered to the Unit and, if different, to the last known address of the person who appears as Owner of such Unit as that address is stated on the records of the Association at the time of such mailing.

18.4 Law to Govern. This Declaration shall be construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, the Developer has caused this Declaration of Condominium to be executed as of the day and year written above.

WITNESSES:

Grace Trucks

Print: Grace Trucks

Cathy Duncan

Print: Cathy Duncan

DEVELOPER:

Condominiums of Carillon, LLC  
a Florida limited liability company

By: P. J. Barton

Peter J. Barton, Manager

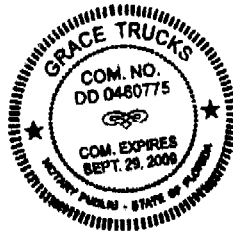
STATE OF FLORIDA  
COUNTY OF BAY

The foregoing Declaration was acknowledged before me this 13 day of March, 2007,  
by Peter J. Barton, as the managing member of Condominiums of Carillon, LLC a  
Florida limited liability company, on behalf of the corporation. He is personally known to  
me or has produced \_\_\_\_\_ as identification and did take an oath.

Grace Trucks

Grace Trucks

Notary Public, State of Florida at Large  
Serial Number:



STATE OF FLORIDA  
COUNTY OF BAY

**JOINDER OF MORTGAGE**

KNOW ALL PERSONS BY THESE PRESENTS, that REGIONS BANK, successor by merger to AmSouth Bank, an Alabama banking corporation, the holder of that certain mortgage dated August 31, 2005, recorded on September 16, 2005 in Official Records Book 2674, Page 1440, of the public records of Bay County, Florida, in consideration of Ten and no/100 Dollars (\$10.00) paid by Condominiums of Carillon, LLC, hereby joins in and consents to the Declaration of Condominium for Sunrise and Sunset, a Condominium. The joinder by the undersigned to said Declaration of Condominium is required by Section 718.104(2), Florida Statutes (2002), and shall not be construed in a manner which affects the priority of the lien of the undersigned's mortgage or the terms thereof.

Signed, sealed and delivered  
in the presence of :

*Cheryl Sowell*  
Print Name: CHERYL SOWELL

REGIONS BANK  
(successor by merger to AmSouth Bank),  
an Alabama banking corporation

By: *Bill O. Rains*  
Bill O. Rains  
Vice-President

*Laurie M. Cullen-Norris*  
Print Name: LAURIE M. CULLEN-NORRIS

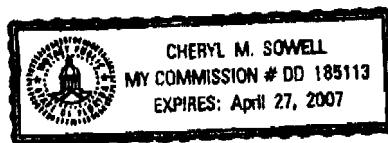
STATE OF FLORIDA  
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this 12 day of March 2007, by Bill O. Rains, as Vice-President of Regions Bank, successor by merger to AmSouth Bank, an Alabama banking corporation, on behalf of the corporation. Said person is personally known to me or has provided his current Florida driver's license as identification.

WITNESS my hand and seal this 12 day of March, 2007.

Affix Notary Seal:

*Cheryl M. Sowell*  
NOTARY PUBLIC  
Print Name: *Cheryl M. Sowell*  
My Commission Expires: *01/27/07*



**Sunrise and Sunset, A Condominium  
Exhibit A**

Composite Exhibit A comprises the following documents:

1. Overall site plan with surveyor's certificate.
2. Legal Description for Sunrise, which is Parcel 1 of the two parcels submitted to condominium ownership by this Declaration.
3. Legal Description for Sunset, which is Parcel 2 of the two parcels submitted to condominium ownership by this Declaration.
4. Sunset Floor Plan and unit designations for Floors 1 through 6. Units on the first floor are 101 and 102; units on the second floor are 201 and 202, etc.
5. Sunset Floor Plan and unit designation for the seventh floor, Unit 701.
6. Sunrise Floor Plan and unit designations for Floors 1 through 6. Units on the first floor are 101 and 102; units on the second floor are 201 and 202, etc.
7. Sunrise Floor Plan and unit designation for the seventh floor, Unit 701.

NORTH



# SUNRISE AND SUNSET

## A CONDOMINIUM

IN SECTION 5, TOWNSHIP 3 SOUTH, RANGE 17 WEST,  
BAY COUNTY, FLORIDA  
MARCH 2007

### LEGEND

- |                            |                                   |
|----------------------------|-----------------------------------|
| ⊗ = FIRE HYDRANT           | ⊠ = AIR CONDITIONER               |
| ⊙ = POWER POLE             | O.R. = OFFICIAL RECORDS           |
| ⊕ = GUY ANCHOR             | B.F.P. = BACK FLOW PREVENTER      |
| ⊞ = ELECTRICAL SERVICE BOX | ± = MORE OR LESS                  |
| ⊚ = WATER METER            | R/W = RIGHT OF WAY                |
| — = STREET SIGN            | ⊕ = CENTERLINE                    |
| No. = NUMBER               | F.F.E. = FINISHED FLOOR ELEVATION |
| L.B. = LICENSED BUSINESS   | P.S.M. = PROFESSIONAL SURVEYOR    |
| L.S. = LICENSED SURVEYOR   | AND MAPPER                        |
| INV. = INVERT              | — = DISTANCE NOT TO SCALE         |
| ELEV. = ELEVATION          | — = OVERHEAD UTILITY LINES        |
| C.E. = COMMON ELEMENT      |                                   |

SHEET 1 OF 7

### INDEX

- SHEET 1..... OVERALL SITE PLAN  
SHEETS 2-3.... INDIVIDUAL SITE PLAN  
SHEETS 4-5.... SUNRISE FLOOR PLANS  
SHEETS 6-7.... SUNSET FLOOR PLANS

### SURVEYOR'S CERTIFICATE: SUNRISE AND SUNSET CONDOMINIUMS, CERTIFICATE OF SURVEY

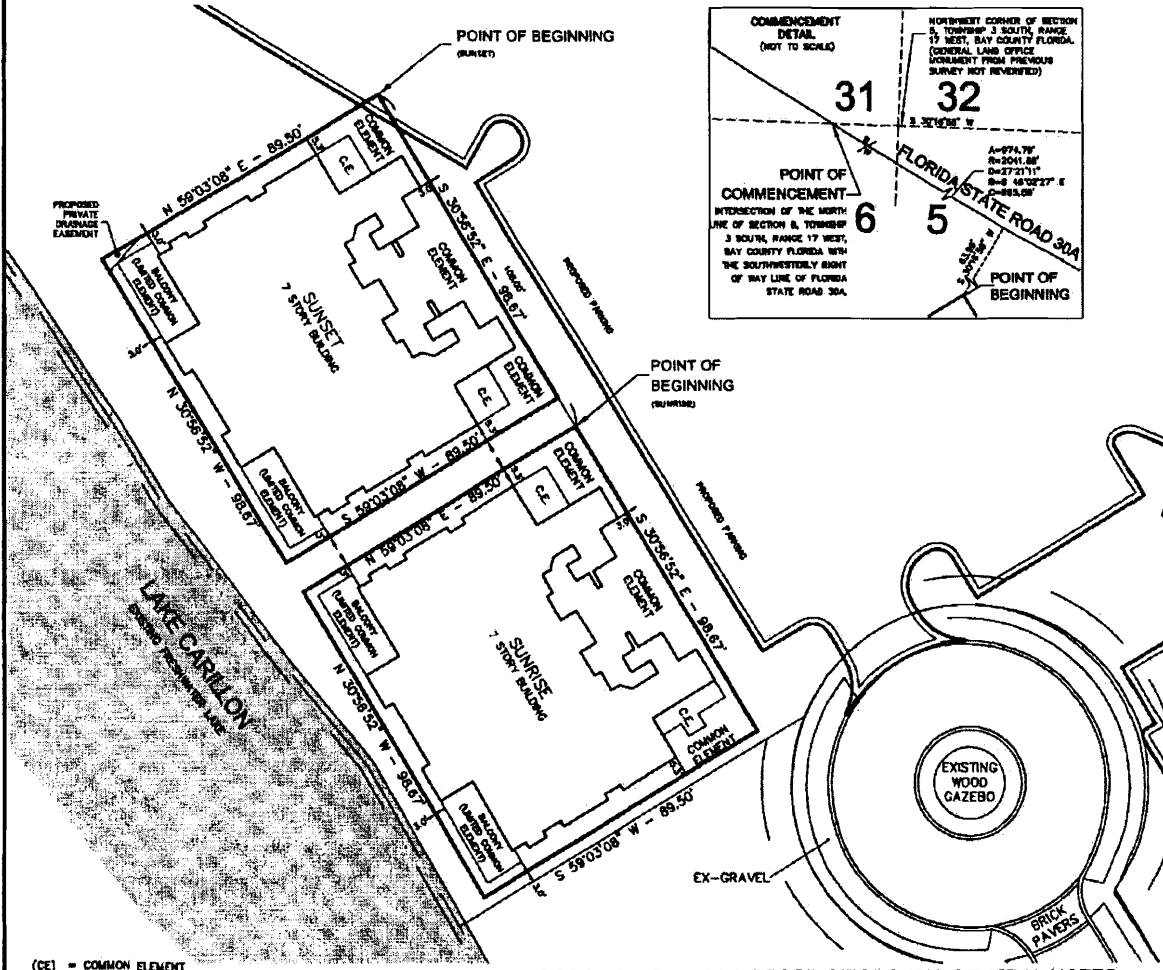
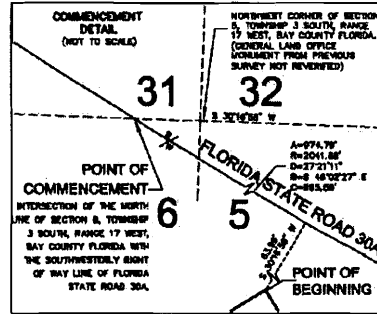
I, ALLEN EARL TUCKER, BEING A PROFESSIONAL LAND SURVEYOR DULY AUTHORIZED TO PRACTICE IN THE STATE OF FLORIDA, DO HEREBY CERTIFY THAT THE CONSTRUCTION OF THE IMPROVEMENTS WITHIN SUNRISE AND SUNSET CONDOMINIUMS, AS ATTACHED HERETO IS SUBSTANTIALLY COMPLETE, SO THAT THE MATERIALS COMPRISING EXHIBIT "A" OF THE DECLARATION OF CONDOMINIUM, TOGETHER WITH THE PROVISIONS OF THE DECLARATION DESCRIBING THE CONDOMINIUM PROPERTY, IS AN ACCURATE REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS, AND THAT THE IDENTIFICATION, LOCATION AND DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT THEREIN, CAN BE DETERMINED FROM THESE MATERIALS. I FURTHER CERTIFY THAT ALL PLANNED IMPROVEMENTS INCLUDING, BUT NOT LIMITED TO, LANDSCAPING, UTILITY SERVICES AND ACCESS TO THE UNITS AND COMMON ELEMENT FACILITIES, HAVE BEEN SUBSTANTIALLY COMPLETED.

*Allen Earl Tucker* 3/12/07  
ALLEN EARL TUCKER,  
PROFESSIONAL SURVEYOR AND MAPPER LICENSE  
NUMBER 4584 GUSTIN, COTHERN & TUCKER, INC.  
121 HART STREET NICEVILLE, FLORIDA 32578  
LICENSED SURVEY BUSINESS NUMBER 3501

### OVERALL SITE PLAN

PREPARED BY:  
**Gustin, Cothorn & Tucker, Inc.**  
C/M Engineering/Land Surveying  
121 Hart Street Niceville, FL 32578 (850) 870-5141

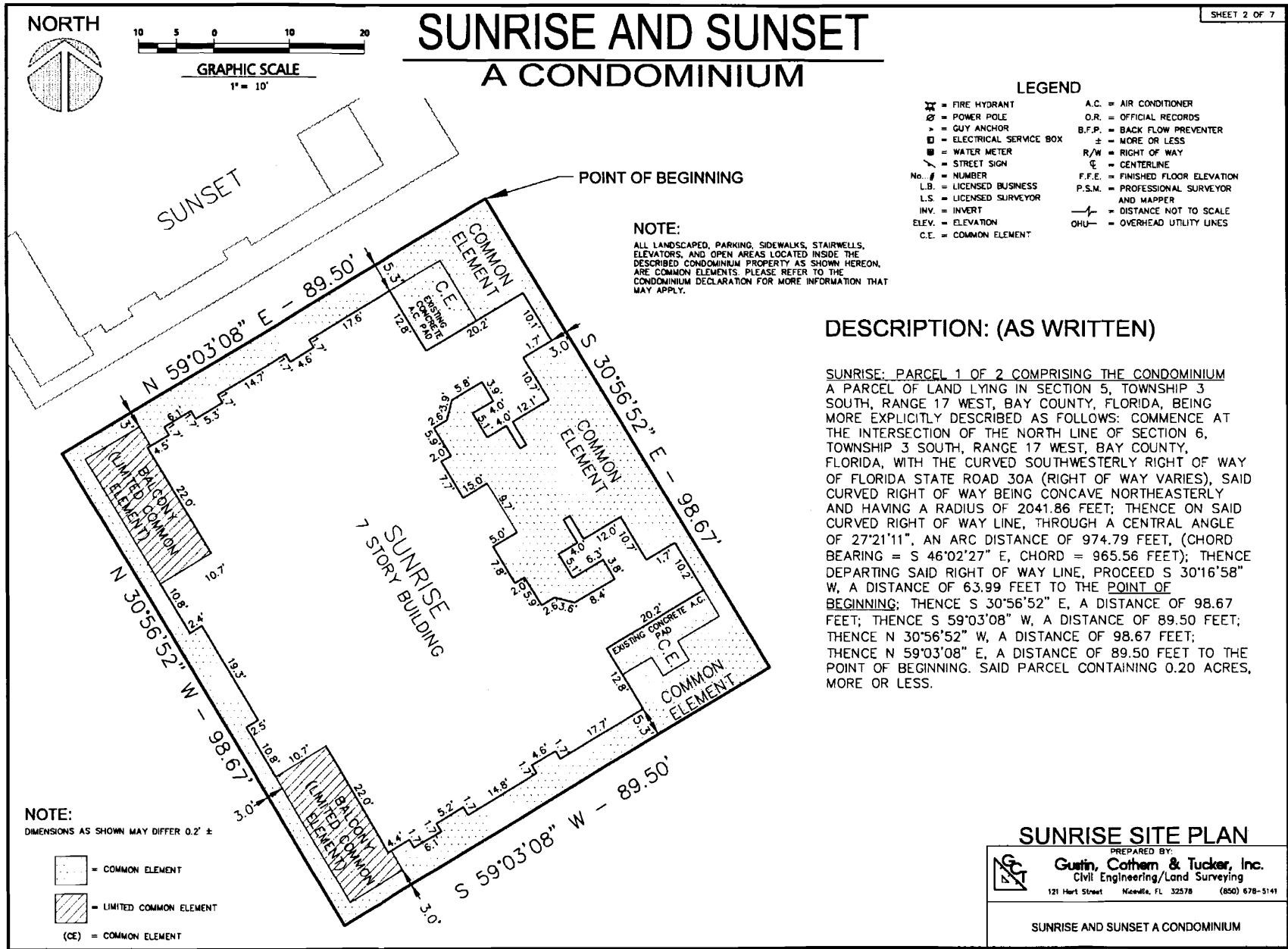
SUNRISE AND SUNSET A CONDOMINIUM



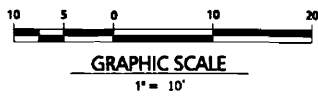
(CE) = COMMON ELEMENT

SEE SHEETS 2-3 FOR DESCRIPTIONS AND GENERAL NOTES

B-1600



# SUNRISE AND SUNSET A CONDOMINIUM



### LEGEND

- |                            |   |
|----------------------------|---|
| ⊕ = FIRE HYDRANT           | A.C. = AIR CONDITIONER                    |
| ⊖ = POWER POLE             | O.R. = OFFICIAL RECORDS                   |
| ⊙ = GUY ANCHOR             | B.F.P. = BACK FLOW PREVENTER              |
| ⊠ = ELECTRICAL SERVICE BOX | ± = MORE OR LESS                          |
| ⊡ = WATER METER            | R/W = RIGHT OF WAY                        |
| — = STREET SIGN            | CL = CENTERLINE                           |
| No. # = NUMBER             | F.F.E. = FINISHED FLOOR ELEVATION         |
| L.B. = LICENSED BUSINESS   | P.S.M. = PROFESSIONAL SURVEYOR AND MAPPER |
| L.S. = LICENSED SURVEYOR   | — = DISTANCE NOT TO SCALE                 |
| INV. = INVERT              | OHU = OVERHEAD UTILITY LINES              |
| ELEV. = ELEVATION          |   |
| C.E. = COMMON ELEMENT      |   |

**NOTE:**  
ALL LANDSCAPED, PARKING, SIDEWALKS, STAIRWELLS, ELEVATORS, AND OPEN AREAS LOCATED INSIDE THE DESCRIBED CONDOMINIUM PROPERTY AS SHOWN HEREON, ARE COMMON ELEMENTS. PLEASE REFER TO THE CONDOMINIUM DECLARATION FOR MORE INFORMATION THAT MAY APPLY.

### DESCRIPTION: (AS WRITTEN)

SUNRISE: PARCEL 1 OF 2 COMPRISING THE CONDOMINIUM A PARCEL OF LAND LYING IN SECTION 5, TOWNSHIP 3 SOUTH, RANGE 17 WEST, BAY COUNTY, FLORIDA, BEING MORE EXPLICITLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE NORTH LINE OF SECTION 6, TOWNSHIP 3 SOUTH, RANGE 17 WEST, BAY COUNTY, FLORIDA, WITH THE CURVED SOUTHWESTERLY RIGHT OF WAY OF FLORIDA STATE ROAD 30A (RIGHT OF WAY VARIES), SAID CURVED RIGHT OF WAY BEING CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 2041.86 FEET; THENCE ON SAID CURVED RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 27°21'11", AN ARC DISTANCE OF 974.79 FEET, (CHORD BEARING = S 46°02'27" E, CHORD = 965.56 FEET); THENCE DEPARTING SAID RIGHT OF WAY LINE, PROCEED S 30°16'58" W, A DISTANCE OF 63.99 FEET TO THE POINT OF BEGINNING; THENCE S 30°56'52" E, A DISTANCE OF 98.67 FEET; THENCE S 59°03'08" W, A DISTANCE OF 89.50 FEET; THENCE N 30°56'52" W, A DISTANCE OF 98.67 FEET; THENCE N 59°03'08" E, A DISTANCE OF 89.50 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINING 0.20 ACRES, MORE OR LESS.

**NOTE:**  
DIMENSIONS AS SHOWN MAY DIFFER 0.2' ±

- = COMMON ELEMENT
- = LIMITED COMMON ELEMENT
- (C.E.) = COMMON ELEMENT

### SUNRISE SITE PLAN

PREPARED BY:  
**Gustin, Cothran & Tucker, Inc.**  
Civil Engineering/Land Surveying  
121 Hart Street    Nocatee, FL 32278    (850) 678-5141

SUNRISE AND SUNSET A CONDOMINIUM



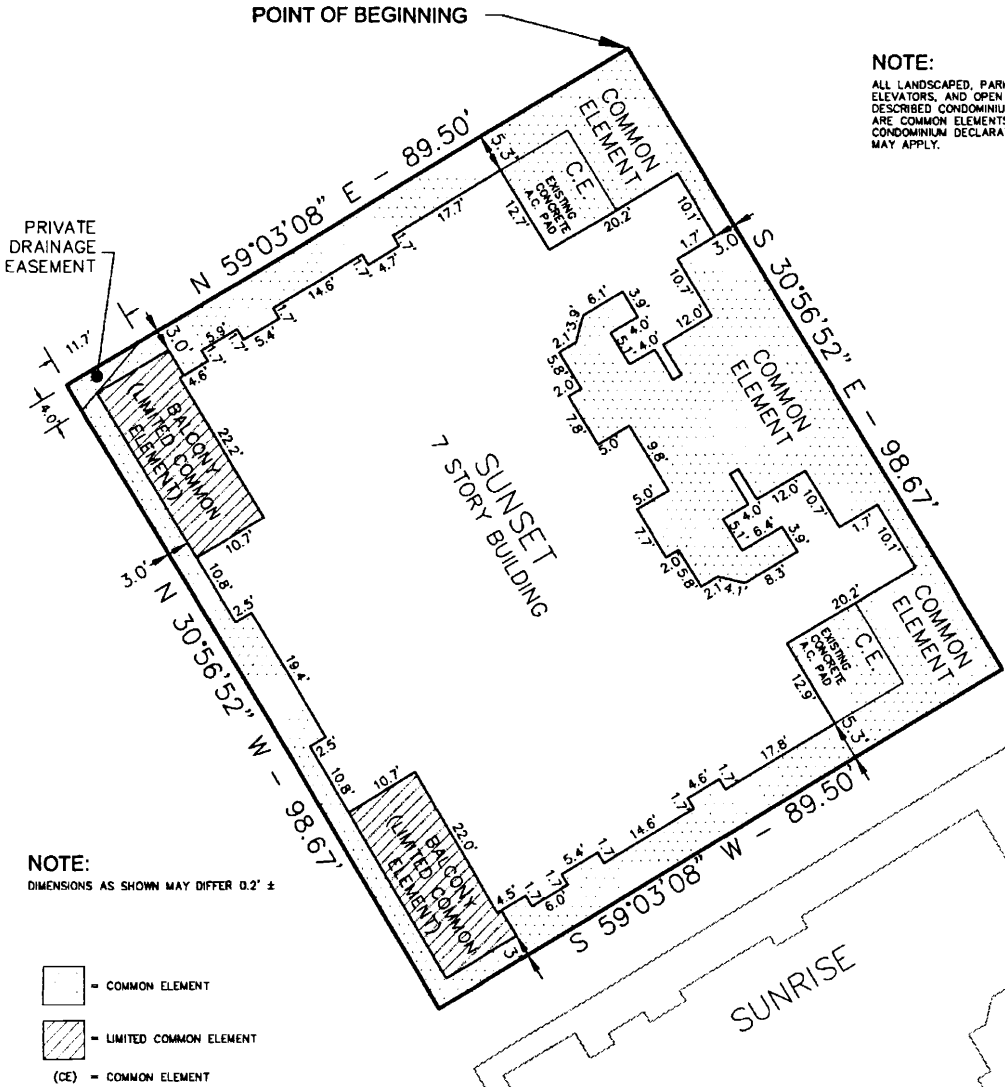
# SUNRISE AND SUNSET A CONDOMINIUM

- LEGEND**
- = FIRE HYDRANT
  - = POWER POLE
  - = GUY ANCHOR
  - = ELECTRICAL SERVICE BOX
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  - ± = MORE OR LESS
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  - CL = CENTERLINE
  - F.F.E. = FINISHED FLOOR ELEVATION
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  - +— = DISTANCE NOT TO SCALE
  - OH— = OVERHEAD UTILITY LINES

**NOTE:**  
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**DESCRIPTION : (AS WRITTEN)**

SUNSET: PARCEL 2 OF 2 COMPRISING THE CONDOMINIUM A PARCEL OF LAND LYING IN SECTION 5, TOWNSHIP 3 SOUTH, RANGE 17 WEST, BAY COUNTY, FLORIDA, BEING MORE EXPLICITLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE NORTH LINE OF SECTION 6, TOWNSHIP 3 SOUTH, RANGE 17 WEST, BAY COUNTY, FLORIDA, WITH THE CURVED SOUTHWESTERLY RIGHT OF WAY OF FLORIDA STATE ROAD 30A (RIGHT OF WAY VARIES), SAID CURVED RIGHT OF WAY BEING CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 2041.86 FEET; THENCE ON SAID CURVED RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 27°21'11", AN ARC DISTANCE OF 974.79 FEET, (CHORD BEARING = S 46°02'27" E, CHORD = 965.56 FEET); THENCE DEPARTING SAID RIGHT OF WAY LINE, PROCEED S 30°16'58" W, A DISTANCE OF 63.99 FEET; THENCE S 30°56'52" E, A DISTANCE OF 108.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S 30°56'52" E, A DISTANCE OF 98.67 FEET; THENCE S 59°03'08" W, A DISTANCE OF 89.50 FEET; THENCE N 30°56'52" W, A DISTANCE OF 98.67 FEET; THENCE N 59°03'08" E, A DISTANCE OF 89.50 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINING 0.20 ACRES, MORE OR LESS.



**NOTE:**  
DIMENSIONS AS SHOWN MAY DIFFER 0.2' ±

- = COMMON ELEMENT
- = LIMITED COMMON ELEMENT
- (CE) = COMMON ELEMENT

**SUNSET SITE PLAN**

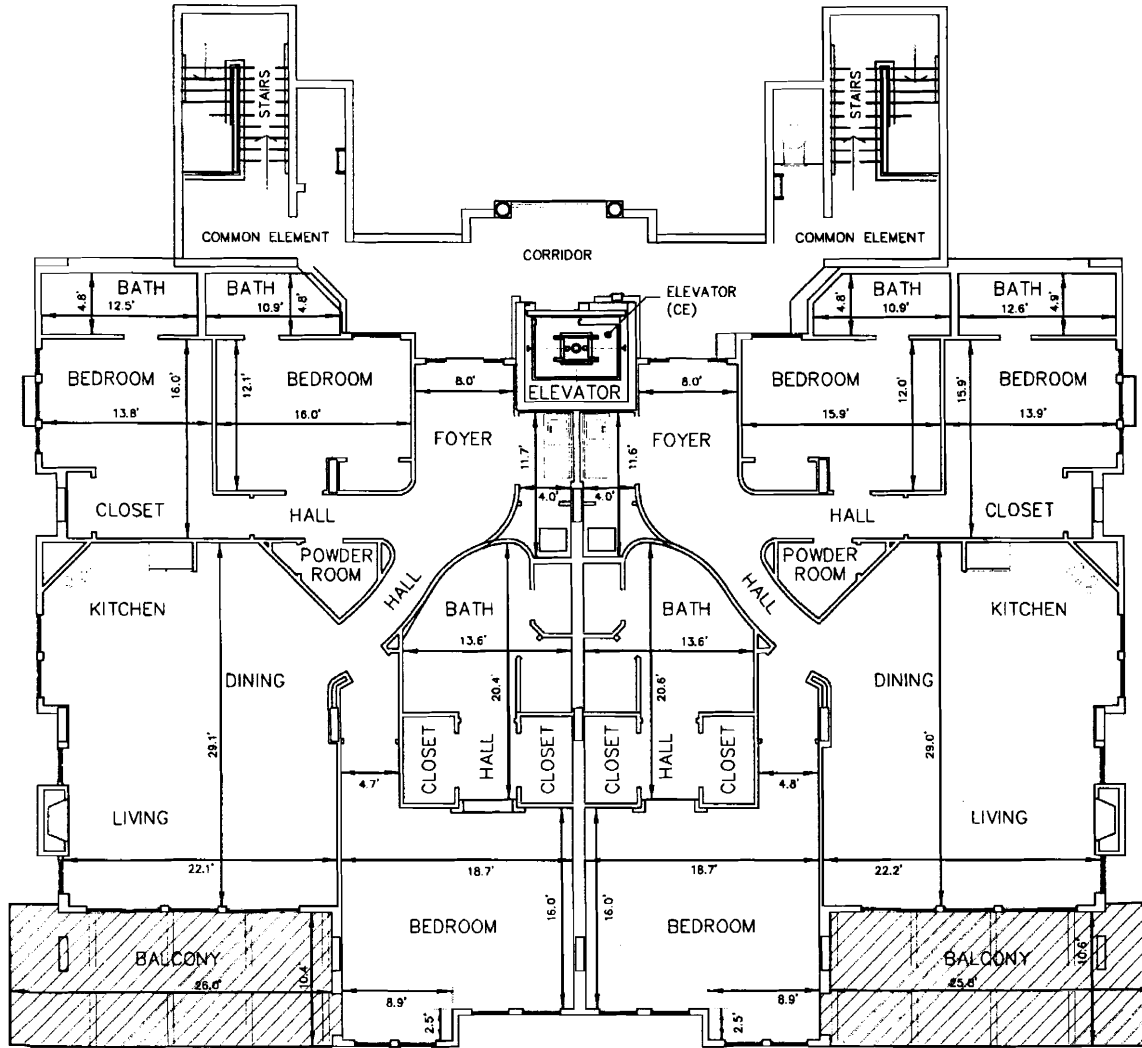
PREPARED BY:  
**Gustin, Cothran & Tucker, Inc.**  
Civil Engineering/Land Surveying  
121 Hart Street    Miraville, FL 32578    (850) 678-5141

SUNRISE AND SUNSET A CONDOMINIUM






# SUNRISE AND SUNSET A CONDOMINIUM



(CE) = COMMON ELEMENT

 = LIMITED COMMON ELEMENT

**NOTE:**  
DIMENSIONS AS SHOWN MAY DIFFER 0.2' ±

101  
201  
301  
401  
501  
601

102 - MIRROR IMAGE  
202 - MIRROR IMAGE  
302 - MIRROR IMAGE  
402 - MIRROR IMAGE  
502 - MIRROR IMAGE  
602 - MIRROR IMAGE

FLOORS 1 - 6

## SUNSET FLOOR PLAN

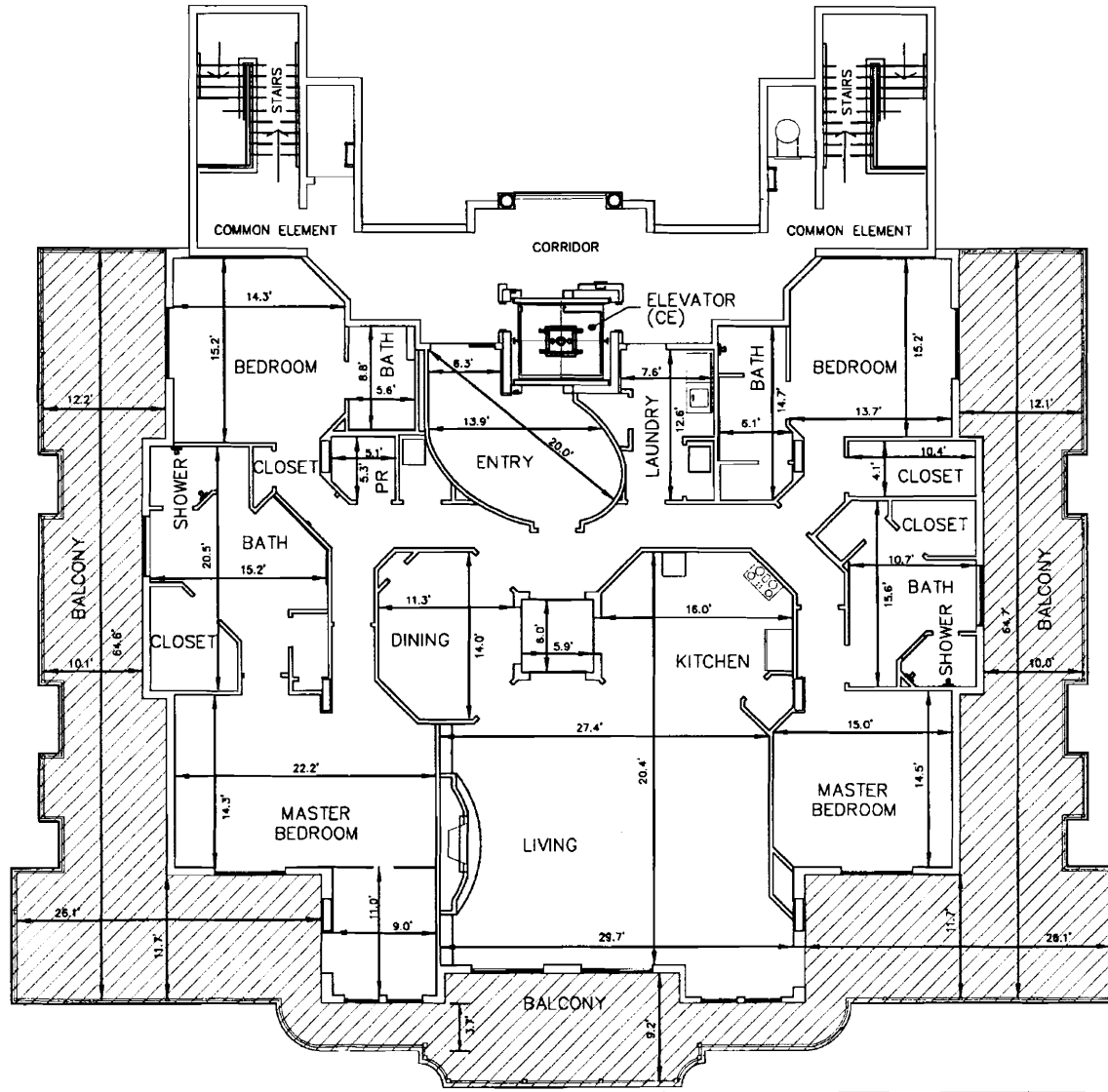
PREPARED BY:  
**Gustin, Cothran & Tucker, Inc.**  
Civil Engineering/Land Surveying  
121 Hart Street Nixa, Mo., PL 65706 (850) 678-5141

SUNRISE AND SUNSET A CONDOMINIUM

B-1600



# SUNRISE AND SUNSET A CONDOMINIUM



(CE) = COMMON ELEMENT  
 = LIMITED COMMON ELEMENT

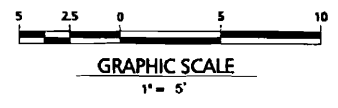
NOTE:  
 DIMENSIONS AS SHOWN MAY DIFFER 0.2' ±

701

## SUNSET FLOORPLAN

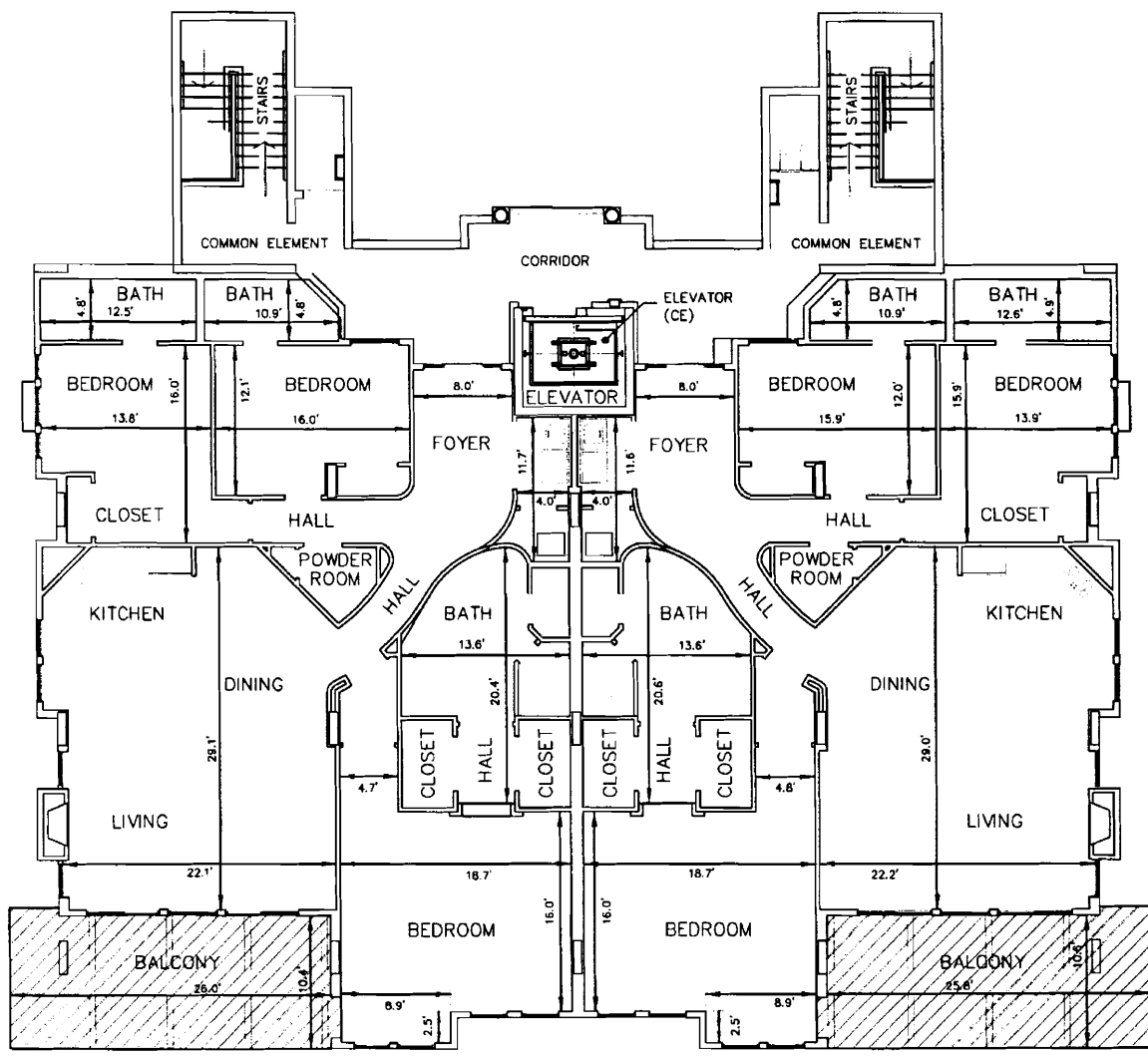
PREPARED BY:  
**Gustin, Cothran & Tucker, Inc.**  
 Civil Engineering/Land Surveying  
 121 Hart Street, Tallahassee, FL 32378 (850) 678-5141


SUNRISE AND SUNSET A CONDOMINIUM



# SUNRISE AND SUNSET A CONDOMINIUM

101  
201  
301  
401  
501  
601



(CE) = COMMON ELEMENT  
 = LIMITED COMMON ELEMENT

NOTE:  
 DIMENSIONS AS SHOWN MAY DIFFER 0.2' ±

102 - MIRROR IMAGE  
 202 - MIRROR IMAGE  
 302 - MIRROR IMAGE  
 402 - MIRROR IMAGE  
 502 - MIRROR IMAGE  
 602 - MIRROR IMAGE

FLOORS 1 - 6

## SUNRISE FLOOR PLAN

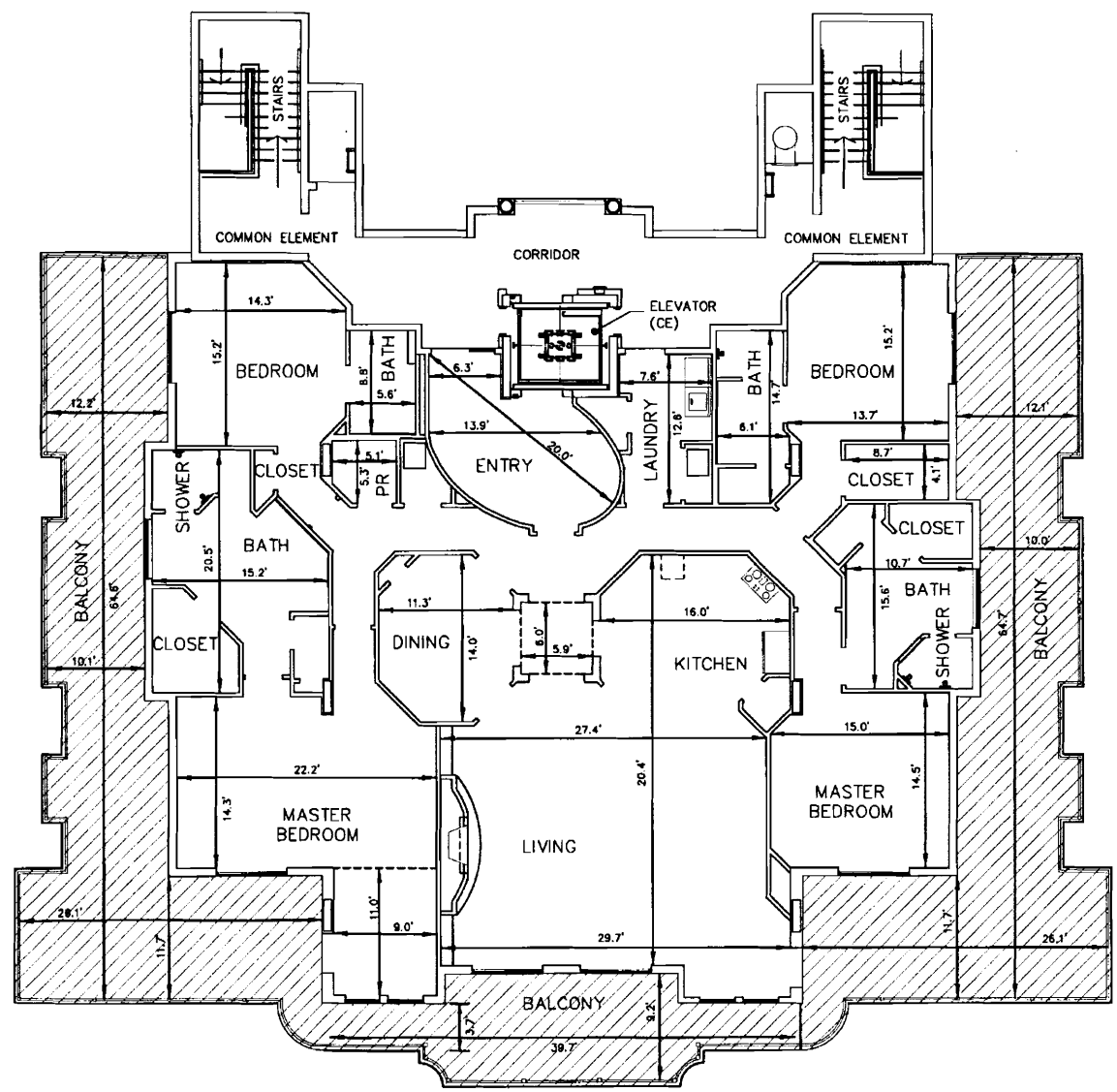
PREPARED BY:  
**Gustin, Cotham & Tucker, Inc.**  
 Civil Engineering/Land Surveying  
 121 Hart Street | Niceville, FL 32578 | (850) 678-5141

SUNRISE AND SUNSET A CONDOMINIUM

B-1600



# SUNRISE AND SUNSET A CONDOMINIUM



(CE) = COMMON ELEMENT  
 = LIMITED COMMON ELEMENT

NOTE:  
 DIMENSIONS AS SHOWN MAY DIFFER 0.2' ±

701

## SUNRISE FLOORPLAN

PREPARED BY:  
**Gustin, Cotham & Tucker, Inc.**  
 Civil Engineering/Land Surveying  
 121 Hart Street    Macville, FL 32578    (850) 678-5141

SUNRISE AND SUNSET A CONDOMINIUM

Exhibit "B" to Declaration  
ARTICLES OF INCORPORATION  
FOR  
SUNRISE AND SUNSET CONDOMINIUM ASSOCIATION,  
INC.,  
A FLORIDA NOT-FOR-PROFIT CORPORATION

The undersigned subscriber to these Articles of Incorporation, a Florida limited liability company, hereby forms a not-for-profit corporation under the laws of the State of Florida.

ARTICLE I  
NAME

The name of the corporation is the Sunrise and Sunset Condominium Association, Inc., hereinafter referred to as the "Association." The street address of the Association is c/o Mr. Peter J. Barton, 5399 E. County Highway 30A #190, Santa Rosa Beach, FL 32459.

ARTICLE II  
REGISTERED AGENT

The initial Registered Agent of the Association is Mr. Peter J. Barton. The street address of the Registered Agent is 5399 E. County Highway 30A #190, Santa Rosa Beach, FL 32459.

ARTICLE III  
PURPOSES

The Association does not contemplate pecuniary gain or profit to its members. The Association's specific purposes are to provide for the maintenance and preservation of the property to be known as Sunrise and Sunset, A Condominium (the "Condominium") in accordance with the Condominium Declaration, recorded or to be recorded in the public records of Bay County, Florida (the "Declaration") for the mutual advantage and benefit of the members of the Association, who shall be unit owners within the Condominium. To promote the health, safety and welfare of the unit owners, the Association shall have and exercise the following authority, powers and duties:

- (a) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration, which is hereby incorporated by reference, as it may be amended from time to time.
- (b) To acquire, by gift, purchase or otherwise, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.
- (c) To borrow money and to mortgage, pledge or hypothecate any and all of its real or personal property as security for money borrowed or debts incurred.
- (d) To participate in mergers and consolidations with other nonprofit corporations organized for similar purposes.

(e) To have all other powers and duties of a not-for-profit corporation organized as a condominium association under Chapter 718, Florida Statutes.

ARTICLE IV  
MEMBERSHIP

Every person or entity who owns a unit in the Condominium shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any unit. In the event the Association becomes a multicondominium association, all unit owners of condominiums managed by the Association shall be members of the Association.

ARTICLE V  
VOTING RIGHTS

Voting rights are assigned in accordance with the provisions of the Declaration. However, until the occurrence of certain events as described in Article 17 of the Declaration, the developer of the Condominium shall have the right to elect a majority of the members of the Board

ARTICLE VI  
BOARD OF DIRECTORS

The affairs of the Association shall be managed by a Board of Directors, members of which do not need to be members of the Association. The Board of Directors shall be selected as provided in the Declaration and Bylaws.

ARTICLE VII  
TERM OF EXISTENCE

This corporation shall commence existence with the filing of these Articles of Incorporation with the Secretary of State, Tallahassee, Florida. The corporation shall have perpetual existence unless sooner dissolved in accordance with the provisions herein contained or in accordance with the laws of the State of Florida.

ARTICLE VIII  
DISSOLUTION

The Association may be dissolved as provided in the Declaration.

ARTICLE IX  
OFFICERS

Subject to the direction of the Board, the affairs of this Association shall be administered by its officers, as designated in the Bylaws of this Association. Said officers shall be elected annually by the Board in accordance with the Bylaws.

ARTICLE X  
BYLAWS

The Bylaws of this Association shall be adopted by the first Board and recorded among the public records of Bay County, Florida. The Bylaws may be altered, amended, modified or repealed by (a) a majority of the Directors, or (b) assent in writing of members representing a majority of the voting interests. Any such modification shall be effective upon recording in the public records of Bay County.

ARTICLE XI  
AMENDMENTS

This Association reserves the right to amend or repeal any of the provisions contained in these Articles by approval in writing of two-thirds (2/3) of the membership.

ARTICLE XII  
SUPREMACY

These Articles and the Bylaws are subject to the Declaration and in the event of a conflict, the Declaration shall govern. In the event of a conflict between the Articles and Bylaws, the Articles shall govern.

ARTICLE XIII  
INDEMNIFICATION

This Association shall indemnify and hold harmless any and all of its present or former directors, officers, employees or agents, to the full extent permitted by law. Said indemnification shall include but not be limited to the expenses, including the cost of any judgments, fines, settlements and counsel's fees actually and necessarily paid or incurred in connection with any action, suit or proceeding, whether civil, criminal, administrative or investigative, and any appeal thereof, to which any such persons or his legal representative may be made a party or may be threatened to be made a party by reason of his being or having been a director, officer, employee or agent as herein provided. The foregoing right of indemnification shall not affect any other rights to which any director, officer, employee or agent may be entitled as a matter of law or which he may be lawfully granted.

ARTICLE XIV  
INCORPORATOR

The incorporator of the corporation is Condominiums of Carillon, LLC, a Florida limited liability company, whose address is c/o Peter J. Barton 5399 E. County Highway 30A #190, Santa Rosa Beach, FL 32459.

IN WITNESS WHEREOF, the incorporator has cause these Articles of Incorporation to be executed this 13 day of March, 2007.

CONDOMINIUMS OF CARILLON, LLC,  
a Florida Limited Liability Company

WITNESSES:

Grace Trucks  
print: Grace Trucks  
Cathy Duncan  
print: Cathy Duncan

By: P. J. Barton  
Peter J. Barton, Manager

STATE OF FLORIDA  
COUNTY OF BAY

The foregoing instrument was acknowledged before me this 13 day of March, 2007, by Peter J. Barton, manager of CONDOMINIUMS OF CARILLON, LLC, a Florida Limited Liability Company. He is personally known to me or has produced a Florida driver's license as identification and did take an oath.



Grace Trucks  
Grace Trucks

Notary Public, State of Florida at Large  
Serial Number:



EXHIBIT "C" TO DECLARATION

**Bylaws**  
**For**  
**Sunrise and Sunset Condominium Association, Inc.**

---

**A FLORIDA NOT-FOR-PROFIT CORPORATION**

---

**Introduction**

Sunrise and Sunset Condominium Association, Inc. (the "Association") is organized as a not-for-profit corporation under Chapter 617, Florida Statutes. It is also subject to the special provisions of Chapter 718, Florida Statutes (the "Condominium Act", which extensively regulates the operation of condominium associations in the State of Florida. These Bylaws were written to comply with those chapters at the time the Association was formed. However, those laws may change, and the Association is required to comply with changes to the law.

The Bylaws are attached as an exhibit to the Declaration of Condominium for Sunrise and Sunset, a Condominium, recorded or to be recorded in the public records of Bay County, Florida. The Articles of Incorporation, the document that legally created the corporation under state law, is also an attachment to the Declaration.

A corporation's Bylaws provide the details for running the organization. They must not contradict the statutes, the Declaration or the Articles of Incorporation but they fill in the gaps.

These Bylaws incorporate certain relevant portions of §718.112(2) of the Condominium Act, which are shown with a bar to the left to set them off from the rest of the text. These Bylaws do not restate those procedures that are adequately described in the statute, and the Association should follow the statutory requirements. In other cases, Bylaw provisions are added just below the relevant statute, and Bylaw provisions supplement the statute.

Certain modifications to the statute have been made to make them more useful to the Association. Headings have been added and portions of the statute have been broken into additional paragraphs to make them easier to read, the order of paragraphs has been changed to more logically follow the organization of the Bylaws, and inapplicable sentences or paragraphs have been deleted. In no case has the wording of the statute been changed, and the portion of the statute from which the provision was taken is referenced at the end of each paragraph. The entire statute is not included and should be consulted for additional provisions.

Bylaws are intended to be easier to amend than either the Declaration or the Articles of Incorporation so that the Association can adjust the Bylaws to its needs. Any amendments to the

Prepared by: Doris S. Goldstein, Attorney  
PO Box 23646  
Jacksonville, FL 32241  
Telephone: 904.730.2960  
www.newtownlaw.com

3/9/07

Bylaws must be recorded in the public records of Bay County as an amendment to the Declaration. However, any amendments to the statute shall be automatically incorporated into these Bylaws and do not need to be approved or recorded, although such changes should be noted the next time the Bylaws are amended for any other purpose.

## ARTICLE I MEMBERS

1.1 **Membership.** The members of the Sunrise and Sunset Condominium Association, Inc. (the "Association"), a corporation not for profit organized under Florida law, shall consist of the owners ("Owners") of condominium units ("Units") in Sunrise and Sunset, a Condominium (the "Condominium") located in Bay County, Florida, as described in the Declaration of Condominium recorded or to be recorded in the public records of Bay County, Florida (the "Declaration"). The membership of each Owner shall terminate when he ceases to be an Owner of a Unit. Upon the sale, transfer or other disposition of his ownership interest in a Unit, membership in the Association shall automatically be transferred to the new Unit Owner. The Association may issue certificates evidencing membership.

1.2 **Shares; Votes.** Each Unit shall have an interest in the common elements and the funds and assets of the Association as set out in Section 4.3 of the Declaration. Each Unit is assigned a voting interest, in the same proportion as that Unit's interest in the common elements, to be exercised as determined by the Owners of that Unit. However, until the occurrence of certain events as described in Article 17 of the Declaration and as further described in Section 3.2 of these Bylaws, the developer of the Condominium shall have the right to elect a majority of the members of the Board.

## ARTICLE II MEETINGS OF OWNERS

**Annual Meeting Required.** There shall be an annual meeting of the unit owners. §718.112(2)(d) 1.

**Quorum; voting requirements; proxies.--**

- **Percentage Required.** Unless a lower number is provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members shall be a majority of the voting interests. Unless otherwise provided in this chapter or in the declaration, articles of incorporation, or bylaws, and except as provided in subparagraph (d) 3., decisions shall be made by owners of a majority of the voting interests represented at a meeting at which a quorum is present. §718.112(2)(b) 1.

- **Limited, General Proxies.** Except as specifically otherwise provided [in the statute], unit owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the division. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with subparagraph (f)2.; for votes taken to waive the financial reporting requirements of s. 718.111(13); for votes taken to amend the declaration pursuant to s. 718.110; for votes taken to amend the articles of incorporation or bylaws pursuant to this section; and for any other matter for which this chapter requires or permits a vote of the unit owners. Except as

provided in paragraph (d), after January 1, 1992, no proxy, limited or general, shall be used in the election of board members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. Notwithstanding the provisions of this subparagraph, unit owners may vote in person at unit owner meetings. §718.112(2)(b)2.

- **Effective Date of Proxy.** Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy is revocable at any time at the pleasure of the unit owner executing it. §718.112(2)(b)3

**Notice of Meetings of Members. --**

- **Method.** Written notice, which notice must include an agenda, shall be mailed, hand delivered, or electronically transmitted to each unit owner at least 14 days prior to the annual meeting and shall be posted in a conspicuous place on the condominium property at least 14 continuous days preceding the annual meeting. Upon notice to the unit owners, the board shall by duly adopted rule designate a specific location on the condominium property or association property upon which all notices of unit owner meetings shall be posted; however, if there is no condominium property or association property upon which notices can be posted, this requirement does not apply. §718.112(2)(d)2.

- **Broadcast Notice.** In lieu of or in addition to the physical posting of notice of any meeting of the unit owners 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 condominium 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 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.

- **Delivery.** Unless a unit owner waives in writing the right to receive notice of the annual meeting, such notice shall be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for meetings and notice for all other purposes shall be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner. However, if a unit is owned by more than one person, the association shall provide notice, for meetings and all other purposes, to that one address which the developer initially identifies for that purpose and thereafter as one or more of the owners of the unit shall so advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered, in accordance with this provision. §718.112(2)(d)2.

.....

**Action without Meeting**— Any approval by unit owners called for by this chapter or the applicable declaration or bylaws, including, but not limited to, the approval requirement in s. 718.111(8), shall be made at a duly noticed meeting of unit owners and shall be subject to all requirements of this chapter or the applicable condominium documents relating to unit owner decision making, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws or declaration or any statute that provides for such action. §718.112(2)(d)4.

**Waiver of Notice**— Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration or any statute. If authorized by the bylaws, notice of meetings of the board of administration, unit owner meetings, except unit owner meetings called to recall board members under paragraph (j), and committee meetings may be given by electronic transmission to unit owners who consent to receive notice by electronic transmission. §718.112(2)(d)5.

**Owner Participation**— Unit owners shall have the right to participate in meetings of unit owners with reference to all designated agenda items. However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation. §718.112(2)(d)6

**Taping**— Any unit owner may tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the division. §718.112(2)(d)7

2.1 **Conduct of Meetings.** Owners' meetings shall be held in accordance with the provisions of the Declaration and, subject to the Declaration, in accordance with these By-Laws. Except where in conflict, Roberts Rules of Order (as amended) shall govern the conduct of all meetings.

2.2 **Annual Meeting.** The annual meeting of the Owners shall be held at the offices of the Association or at such other place in the state of Florida as the Board or the President of the Association shall designate. The annual meeting shall be held at a place and time determined by the Board, which shall ordinarily be at least 11 months but no later than 13 months since the previous annual meeting.

2.3 **Special Meetings.** Unless specifically provided otherwise in these Bylaws or in the Declaration, meetings of the Unit Owners shall be held when directed by the President or the Board or when requested in writing by Owners holding a majority of the votes having the right to vote at such meeting.

2.4 **Notice.** Notice of all Unit Owners' meetings, regular or special, shall be given as required by the statute. Notice of meetings (except Unit Owner meetings called to recall Board members) may be given by electronic transmission to Unit Owners who consent to receive notice by electronic transmission.

2.5 **Quorum.** Voting at a Unit Owners' meeting requires presence of Owners (in person or by proxy) representing a simple majority. If applicable law is changed to permit voting by telephone conference or any other fashion, such changes in the law shall automatically be incorporated into these Bylaws.

2.6 Proxies. Proxies and limited proxies are permitted to the greatest extent allowed by the Condominium Act.

2.7 Waiver. Except for those matters required by the Condominium Act to be voted upon at a meeting, any Owner may waive notice of a meeting or consent to the holding of a meeting without notice or consent to action taken without a meeting, by execution of a waiver or consent in writing. Such waiver or consent may be executed prior to, at, or subsequent to the meeting or Association action to which the waiver or consent relates.

2.8 Action without Meeting. If permitted by the Board, the Owners may approve any matter by written agreement without a meeting.

ARTICLE III  
BOARD OF DIRECTORS

**Election**—The members of the board shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the board, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in this chapter. §718.112(2)(d)3

- **First Notice**— Not less than 60 days before a scheduled election, the association shall mail, deliver, or electronically transmit, whether by separate association mailing or included in another association mailing, delivery, or transmission, including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate for the board must give written notice to the association not less than 40 days before a scheduled election. §718.112(2)(d)3

- **Second Notice. Ballot**— Together with the written notice and agenda as set forth in subparagraph 2., the association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request of a candidate, the association shall include an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing, delivery, or transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with the provisions contained herein, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots. §718.112(2)(d)3

- **Voting**—Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the board. No unit owner shall permit any other person to vote his or her ballot, and any such ballots improperly cast shall be deemed invalid, provided any unit owner who violates this provision may be fined by the association in accordance with s. 718.303. A unit owner who needs assistance in casting the ballot for the

reasons stated in s. 101.051 may obtain assistance in casting the ballot. The regular election shall occur on the date of the annual meeting. §718.112(2)(d)3

- **Insufficient Candidates**--Notwithstanding the provisions of this subparagraph, an election is not required unless more candidates file notices of intent to run or are nominated than board vacancies exist. §718.112(2)(d)3

- **Ineligibility**--A person who has been convicted of any felony by any court of record in the United States and who has not had his or her right to vote restored pursuant to law in the jurisdiction of his or her residence is not eligible for board membership. The validity of an action by the board is not affected if it is later determined that a member of the board is ineligible for board membership due to having been convicted of a felony. §718.112(2)(d)1

- **Vacancies on Board**--- Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of subparagraph 3, unless the association has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this section shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (j) and rules adopted by the division. §718.112(2)(d)8

**Board of administration meetings.**---

- **Open to Unit Owners**--- Meetings of the board of administration at which a quorum of the members is present shall be open to all unit owners. Any unit owner may tape record or videotape meetings of the board of administration. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt written reasonable rules governing the frequency, duration, and manner of unit owner statements. §718.112(2)(c)

- **Notice of Board Meetings**---Adequate notice of all meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the condominium property at least 48 continuous hours preceding the meeting except in an emergency. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the board. Such emergency action shall be noticed and ratified at the next regular meeting of the board. However, written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding unit use, will be considered shall be mailed, delivered or electronically transmitted to the unit owners and posted conspicuously on the condominium property not less than 14 days prior to the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the association. Upon notice to the unit owners, the board shall by duly adopted rule designate a specific location on the condominium property or association property upon which all notices of board meetings shall be posted. If there is no condominium property or association property upon which notices can be

posted, notices of board meetings shall be mailed, delivered or electronically transmitted at least 14 days before the meeting to the owner of each unit. §718.112(2)(c).

- **Budget, Assessments**—Notice of any meeting in which regular assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. Meetings of a committee to take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to the provisions of this paragraph. Meetings of a committee that does not take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to the provisions of this section, unless those meetings are exempted from this section by the bylaws of the association. §718.112(2)(c).

- **Meetings with Attorney**—Notwithstanding any other law, the requirement that board meetings and committee meetings be open to the unit owners is inapplicable to meetings between the board or a committee and the association's attorney, with respect to proposed or pending litigation, when the meeting is held for the purpose of seeking or rendering legal advice. §718.112(2)(c).

- **Absent Board Member**—A member of the board of administration or a committee may submit in writing his or her agreement or disagreement with any action taken at a meeting that the member did not attend. This agreement or disagreement may not be used as a vote for or against the action taken and may not be used for the purposes of creating a quorum. §718.112(2)(b)(4).

- **Telephone Conference**—When any of the board or committee members meet by telephone conference, those board or committee members attending by telephone conference may be counted toward obtaining a quorum and may vote by telephone. A telephone speaker must be used so that the conversation of those board or committee members attending by telephone may be heard by the board or committee members attending in person as well as by any unit owners present at a meeting. §718.112(2)(b)(5)

3.1 **Initial Composition.** The initial Board shall consist of three members originally appointed by the Developer.

3.2 **Election By Owners, Developer.** Owners other than the Developer shall be entitled to elect one Board member when Owners other than the Developer own 15% of the Units in the Association, and may elect a majority of the Board of the Association as set forth in Section 718.301 of the Condominium Act. At the time of the recording of this Declaration, that statute entitled Unit Owners other than the Developer to elect a majority of the directors at the first to occur of the following:

- (i) Three years after 50 percent of the Units have been conveyed to purchasers,
- (ii) Three months after 90 percent of the Units have been conveyed to purchasers,
- (iii) When all of the Units have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business,
- (iv) When some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business, or

(v) Seven years after the recording of the declaration.

The Developer shall select the remaining directors, and shall have the right to select at least one director so long the Developer holds at least 5% of the Units for sale in the ordinary course of business.

3.3 First Election. Within seventy-five (75) days after the Owners other than the Developer become entitled to elect a member of the Board, the Association shall call a meeting of the Owners to elect a member of the Board. Notice shall be given not less than sixty (60) days before the meeting. The meeting may be called and notice given by any Owner if the Association fails to do so. At the meeting, such Owners shall elect the director which they are then entitled to elect, who shall replace one named by the Developer and who shall serve until the next regularly scheduled annual meeting of the Association, when a successor shall be elected as provided in the Bylaws.

3.4 Number of Directors. After transition from developer control, the Board shall consist of three directors, which is the minimum under current law. If prior to the election any Owner so requests, the number of directors shall be increased up to five directors.

3.5 Term. Directors shall hold office for a term of two years. A director may be elected to a one-year term to permit staggered terms. Directors may be elected for successive terms.

3.6 Qualifications. Directors are not required to be Owners.

3.7 Voting Procedure. The Owner representing each Unit may vote the Unit's voting interest for each seat to be filled. No cumulative voting shall be permitted. The candidates receiving the highest number of votes shall be declared elected. If the number of candidates does not exceed the number of available seats, no election shall be required.

**Different Voting Procedure**—An association may, by the affirmative vote of a majority of the total voting interests, provide for different voting and election procedures in its bylaws, which vote may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy. §718.112(2)(d)8

3.8 Removal. Except for directors selected by the Developer, any director may be removed from office, with or without cause, in accordance with the statute cited directly below.

**Recall of board members.**—Subject to the provisions of s. 718.301, any member of the board of administration may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all the voting interests. A special meeting of the unit owners to recall a member or members of the board of administration may be called by 10 percent of the voting interests giving notice of the meeting as required for a meeting of unit owners, and the notice shall state the purpose of the meeting. Electronic transmission may not be used as a method of giving notice of a meeting called in whole or in part for this purpose. §718.112(2)(j).

• **Recall by Meeting**—If the recall is approved by a majority of all voting interests by a vote at a meeting, the recall will be effective as provided herein. The board shall duly notice and



hold a board meeting within 5 full business days of the adjournment of the unit owner meeting to recall one or more board members. At the meeting, the board shall either certify the recall, in which case such member or members shall be recalled effective immediately and shall turn over to the board within 5 full business days any and all records and property of the association in their possession, or shall proceed as set forth in subparagraph 3. §718.112(2)(j)1

- **Recall in Writing**—If the proposed recall is by an agreement in writing by a majority of all voting interests, the agreement in writing or a copy thereof shall be served on the association by certified mail or by personal service in the manner authorized by chapter 48 and the Florida Rules of Civil Procedure. The board of administration shall duly notice and hold a meeting of the board within 5 full business days after receipt of the agreement in writing. At the meeting, the board shall either certify the written agreement to recall a member or members of the board, in which case such member or members shall be recalled effective immediately and shall turn over to the board within 5 full business days any and all records and property of the association in their possession, or proceed as described in subparagraph 3. §718.112(2)(j)2

- **Recall Not Certified**—If the board determines not to certify the written agreement to recall a member or members of the board, or does not certify the recall by a vote at a meeting, the board shall, within 5 full business days after the meeting, file with the division a petition for arbitration pursuant to the procedures in s. 718.1255. For the purposes of this section, the unit owners who voted at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall as to any member or members of the board, the recall will be effective upon mailing of the final order of arbitration to the association. If the association fails to comply with the order of the arbitrator, the division may take action pursuant to s. 718.501. Any member or members so recalled shall deliver to the board any and all records of the association in their possession within 5 full business days of the effective date of the recall. §718.112(2)(j)3

- **Failure to Hold Meeting**—If the board fails to duly notice and hold a board meeting within 5 full business days of service of an agreement in writing or within 5 full business days of the adjournment of the unit owner recall meeting, the recall shall be deemed effective and the board members so recalled shall immediately turn over to the board any and all records and property of the association.

- **Filling Vacancies after Recall**—If a vacancy occurs on the board as a result of a recall and less than a majority of the board members are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining directors, notwithstanding any provision to the contrary contained in this subsection. If vacancies occur on the board as a result of a recall and a majority or more of the board members are removed, the vacancies shall be filled in accordance with procedural rules to be adopted by the division, which rules need not be consistent with this subsection. The rules must provide procedures governing the conduct of the recall election as well as the operation of the association during the period after a recall but prior to the recall election. §718.112(2)(j)5

3.9 Vacancy. Any vacancy occurring in the Board may be filled by a majority vote of the remaining Board members, except that a vacancy resulting from recall of a director by the Owners shall be filled in accordance with the statute. Owners shall also vote to fill a vacancy if there are not sufficient remaining Board members to constitute a quorum.

3.10 Notice; Waiver. Notice of Board meetings may be given by electronic transmission to Unit Owners who consent to receive notice by electronic transmission. By unanimous action, Owners may waive notice of a meeting or consent to the holding of a meeting without notice or consent to any action of the Board without a meeting. Such waiver or consent may be executed prior to, at, or subsequent to the meeting or Board action to which the waiver or consent relates.

3.11 Quorum. Voting at a Board meeting requires presence of at least one-half of the directors, in person or telephone conference. If applicable law is changed to permit voting by proxy or any other fashion, such changes in the law shall automatically be incorporated into these Bylaws. If applicable law is changed to permit it, any action required to be taken by vote of the Board may be taken in the absence of a meeting (or in the absence of a quorum at a meeting) by obtaining the written approval of a majority of the Board.

3.12 Compensation. Directors shall receive no compensation for their services unless expressly provided for in resolutions duly adopted by the Owners.

3.13 Powers and Duties. The Board shall have the following powers and duties:

- (a) To elect the officers of the Association as hereinafter provided;
- (b) To administer the affairs of the Association and the Property and formulate policies for such purposes;
- (c) To adopt administrative rules and regulations governing the administration, management, operation and use of the Property and to amend such rules and regulations from time to time;
- (d) To provide for the maintenance, repair and replacement of those parts of the Property stated in the Declaration to be maintained by the Association;
- (e) To provide for the designation, hiring and removal of employees and other personnel or service companies, including a property manager, to engage or contract for the services of others, to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and to delegate any such powers to the employees or agents of the Association;
- (f) To estimate the amount of the annual budget, to provide the manner of assessing and collecting from the Owners their respective shares of such estimated expenses as hereinafter provided and to assess any supplemental assessment as the Board shall deem necessary;
- (g) Unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of the Owners as expressed in a resolution duly adopted at any annual or special meeting of the Owners; and
- (h) To exercise all other powers and duties of the Board provided for in the Declaration, the Articles or the Condominium Act.

ARTICLE IV  
OFFICERS

4.1 Election. Subject to the provisions of the Declaration and Articles, at each annual meeting of the Board, the Board shall elect from the membership of the Association the following officers of the Association:

(a) A President, who shall preside over the meetings of the Board and of the Association and shall be the chief executive officer of the Association. In the recess of the Board, the President shall have general control and management of the business and affairs of the Association;

(b) One or more Vice Presidents, who shall in the absence or disability of the President, perform the duties and exercise the powers of the President;

(c) A Secretary, who shall keep the minutes of all meetings of the Board and of the membership and who shall perform all the duties generally incident to the office of Secretary;

(d) A Treasurer, who shall cause to be kept the financial records and books of account of the Association; and

(e) Such additional officers as the Board shall see fit to elect. An individual may hold more than one position.

4.2 Powers. The officers shall have the general powers usually vested in such officers of a not-for-profit corporation, provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may deem necessary.

4.3 Term. Each officer shall hold office for the term of one year and until his successor shall have been elected and qualified.

4.4 Vacancy. The Board shall fill vacancies in any office. Any officer may be removed at any time, with or without cause, by the affirmative vote of a majority of the whole Board.

4.5 Compensation. Officers shall receive no compensation for their services, unless expressly provided for in a resolution duly adopted by the Owners.

ARTICLE V  
RECORDS

**Response to Inquiries**--When a unit owner files a written inquiry by certified mail with the board of administration, the board shall respond in writing to the unit owner within 30 days of receipt of the inquiry. The board's response shall either give a substantive response to the inquirer, notify the inquirer that a legal opinion has been requested, or notify the inquirer that advice has been requested from the division. If the board requests advice from the division, the board shall, within 10 days of its receipt of the advice, provide in writing a substantive response to the inquirer. If a legal opinion is requested, the board shall, within 60 days after the receipt of the inquiry, provide in writing a substantive response to the inquiry. The failure to provide a

substantive response to the inquiry as provided herein precludes the board from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry. The association may through its board of administration adopt reasonable rules and regulations regarding the frequency and manner of responding to unit owner inquiries, one of which may be that the association is only obligated to respond to one written inquiry per unit in any given 30-day period. In such a case, any additional inquiry or inquiries must be responded to in the subsequent 30-day period, or periods, as applicable. §718.112(2)(a)2

5.1 Accounting. The Board shall maintain accounting records according to generally accepted accounting practices, which records shall be open to inspection by Owners at reasonable times and upon reasonable notice. These accounting records shall include a record of receipts and expenditures and a separate account for each Owner showing the assessments charged to and paid by such Owner. Upon reasonable notice to the Board, any owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from him. Additionally, upon written request to the Association any Registered Mortgagee may request and must be furnished a copy of the most recent financial statement and annual report of the Association.

5.2 Meetings. The Board shall keep a record of all meetings, both of the Board and of the Association. For each action taken, the record shall state the vote and a description of the action approved, and, where applicable, the reasons why the action was considered necessary and a summary of the information on which the decision was based. The record shall be available for inspection by any Owner at reasonable times and upon reasonable notice.

## ARTICLE VI HEARINGS; FINES

6.1 Imposition of Fines; Generally. The Association may levy reasonable fines against a unit for the failure of the owner of the unit, or its occupant, licensee, or invitee, to comply with any provision of the Declaration, the Association Bylaws or reasonable rules of the Association. No fine will become a lien against a unit. No fine may exceed that permitted by the Condominium Act.

6.2 Applicability of Provisions. No fine may be levied except after giving reasonable notice and opportunity for a hearing to the unit owner and, if applicable its licensee or invitee. Whenever the Declaration or the Condominium Act requires that an owner be given the opportunity for a hearing before imposition of a fine or other penalty or restriction, this Article shall apply.

6.3 Notice. The party against whom the fine or other penalty is to be imposed shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days. The notice shall include:

- (a) A statement of the date, time and place of the hearing,
- (b) A statement of the provisions of the Declaration, Bylaws or rules which have allegedly been violated, and
- (c) A short and plain statement of the matters asserted by the Association.

6.4 **Hearing.** The hearing must be held before a committee of other unit owners. At the hearing, the party against whom the fine or other penalty is to be imposed shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge and respond to any material considered by the Association. If the committee does not agree with the fine, the fine may not be levied.

## ARTICLE VII BUDGET AND ASSESSMENTS

**Budget meeting.**— Any meeting at which a proposed annual budget of an association will be considered by the board or unit owners shall be open to all unit owners. At least 14 days prior to such a meeting, the board shall hand deliver to each unit owner, or mail to each unit owner at the address last furnished to the association by the unit owner, or electronically transmit to the location furnished by the unit owner for that purpose a notice of such meeting and a copy of the proposed annual budget. An officer or manager of the association, or other person providing notice of such meeting, shall execute an affidavit evidencing compliance with such notice requirement, and such affidavit shall be filed among the official records of the association. §718.112(2)(e).

**Annual budget.**—

- **Form of Proposed Budget**—The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 718.504(21). A multicondominium association shall adopt a separate budget of common expenses for each condominium the association operates and shall adopt a separate budget of common expenses for the association. In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached thereto shall show amounts budgeted therefor. If, after turnover of control of the association to the unit owners, any of the expenses listed in s. 718.504(21) are not applicable, they need not be listed. §718.112(2)(f)1

- **Reserve Accounts**—In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds \$10,000. 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 or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to an adopted budget in which the members of an association have determined, by a majority vote at a duly called meeting of the association, to provide no reserves or less reserves than required by this subsection. However, prior to turnover of control of an association by a developer to unit owners other than a developer pursuant to s. 718.301, the developer may vote to waive the reserves or reduce the funding of reserves for the first 2 fiscal years of the association's operation, beginning with the

fiscal year in which the initial declaration is recorded, after which time reserves may be waived or reduced only upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association. If a meeting of the unit owners has been called to determine whether to waive or reduce the funding of reserves, and no such result is achieved or a quorum is not attained, the reserves as included in the budget shall go into effect. After the turnover, the developer may vote its voting interest to waive or reduce the funding of reserves. §718.112(2)(f)2

- **Use of Reserve Funds**—Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the association. Prior to turnover of control of an association by a developer to unit owners other than the developer pursuant to s. 718.301, the developer-controlled association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the association. §718.112(2)(f)3.
- **Voting Interests of Multicondominium**—In a multicondominium association, the only voting interests which are eligible to vote on questions that involve waiving or reducing the funding of reserves, or using existing reserve funds for purposes other than purposes for which the reserves were intended, are the voting interests of the units subject to assessment to fund the reserves in question. §718.112(2)(f)4.

**Budget exceeding 115% of Prior Assessments—**

- **Special Meeting.** If a board adopts in any fiscal year an annual budget which requires assessments against unit owners which exceed 115 percent of assessments for the preceding fiscal year, the board shall conduct a special meeting of the unit owners to consider a substitute budget if the board receives, within 21 days after adoption of the annual budget, a written request for a special meeting from at least 10 percent of all voting interests. The special meeting shall be conducted within 60 days after adoption of the annual budget. At least 14 days prior to such special meeting, the board shall hand deliver to each unit owner, or mail to each unit owner at the address last furnished to the association, a notice of the meeting. An officer or manager of the association, or other person providing notice of such meeting shall execute an affidavit evidencing compliance with this notice requirement, and such affidavit shall be filed among the official records of the association. Unit owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a majority of all voting interests unless the bylaws require adoption by a greater percentage of voting interests. If there is not a quorum at the special meeting or a substitute budget is not adopted, the annual budget previously adopted by the board shall take effect as scheduled. §718.112(2)(e)2.a.
- **Calculation**—Any determination of whether assessments exceed 115 percent of assessments for the prior fiscal year shall exclude any authorized provision for reasonable reserves for repair or replacement of the condominium property, anticipated expenses of the association which the board does not expect to be incurred on a regular or annual basis, or assessments for betterments to the condominium property. §718.112(2)(e)2.b.

• **Developer-Controlled Board**--If the developer controls the board, assessments shall not exceed 115 percent of assessments for the prior fiscal year unless approved by a majority of all voting interests. §718.112(2)(e)2.c.

**Collection of Assessments.**--The manner of collecting from the unit owners their shares of the common expenses shall be stated in the bylaws. Assessments shall be made against units not less frequently than quarterly in an amount which is not less than that required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. Nothing in this paragraph shall preclude the right of an association to accelerate assessments of an owner delinquent in payment of common expenses. Accelerated assessments shall be due and payable on the date the claim of lien is filed. Such accelerated assessments shall include the amounts due for the remainder of the budget year in which the claim of lien was filed. §718.112(2)(g).

The above provisions are incorporated into these Bylaws.

#### ARTICLE VII ADDITIONAL PROVISIONS

**Transfer fees.**--No charge shall be made by the association or any body thereof in connection with the sale, mortgage, lease, sublease, or other transfer of a unit unless the association is required to approve such transfer and a fee for such approval is provided for in the declaration, articles, or bylaws. Any such fee may be preset, but in no event may such fee exceed \$100 per applicant other than husband/wife or parent/dependent child, which are considered one applicant. However, if the lease or sublease is a renewal of a lease or sublease with the same lessee or sublessee, no charge shall be made. The foregoing notwithstanding, an association may, if the authority to do so appears in the declaration or bylaws, require that a prospective lessee place a security deposit, in an amount not to exceed the equivalent of 1 month's rent, into an escrow account maintained by the association. The security deposit shall protect against damages to the common elements or association property. Payment of interest, claims against the deposit, refunds, and disputes under this paragraph shall be handled in the same fashion as provided in part II of chapter 83. §718.112(2)(i).

**Arbitration.**--There shall be a provision for mandatory nonbinding arbitration as provided for in s. 718.1255. §718.112(2)(k).

**Certificate of compliance.**--There shall be a provision that a certificate of compliance from a licensed electrical contractor or electrician may be accepted by the association's board as evidence of compliance of the condominium units to the applicable fire and life safety code. §718.112(2)(l).

**Common elements; limited power to convey.**— [T]he bylaws shall include a provision granting the association 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. §718.112(2)(m)1

The above provisions are incorporated into these Bylaws.

ARTICLE VII  
AMENDMENT

**Amendment of bylaws.—**

- **Method**—The method by which the bylaws may be amended consistent with the provisions of this chapter shall be stated. If the bylaws fail to provide a method of amendment, the bylaws may be amended if the amendment is approved by the owners of not less than two-thirds of the voting interests. §718.112(2)(h)1
- **Form of Amendment**—No bylaw shall be revised or amended by reference to its title or number only. Proposals to amend existing bylaws shall contain the full text of the bylaws to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. 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 indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of bylaw \_\_\_\_\_ for present text." §718.112(2)(h)2
- **Nonmaterial Errors**—Nonmaterial errors or omissions in the bylaw process will not invalidate an otherwise properly promulgated amendment. §718.112(2)(h)3

The Bylaws may be altered, amended, modified or repealed by (a) a majority of the Directors if ratified by a majority of those Owners present at any duly called meeting of the members of the Association, or (b) assent in writing of two-thirds of the Owners. Any such modification shall be effective upon recording in the public records of Bay County.

ARTICLE VIII  
SUPREMACY

In the event of a conflict among the Bylaws, Articles or Declaration, the Declaration shall control, followed by the Articles and then Bylaws.

These Bylaws were adopted by the Board on March 13, 2007.