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CONDOMINIUM DOCUMENTS

WHISKEY POINTE, A CONDOMINIUM

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WHISKEY POINTE, A CONDOMINIUM

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DECLARATION OF CONDOMINIUM

FOR

WHISKEY POINTE, A CONDOMINIUM

On this 6th day of March, 1989, LUNDSTROM-McDONALD DEVELOPMENT, INC., A Florida Corporation, hereinafter called Developer, as the owner of the fee simple title to the land described herein, for itself, its heirs, grantees and assigns, hereby makes the following declarations:

1. **SUBMISSION TO CONDOMINIUM OWNERSHIP.** The Developer hereby submits to the Condominium form of ownership in the manner provided for by Chapter 718, Florida Statutes, as amended to the date hereof, (The Condominium Act) the land described in paragraph 3. hereof, together with all improvements now and later situated thereon and all rights appurtenant thereto with all such property hereinafter collectively referred to as the condominium property.

All the restrictions, reservations, covenants, conditions, easements and limitations of record and contained herein shall constitute covenants running with the land or equitable servitudes upon the land, as the case may be, and shall run perpetually unless terminated as provided herein, and shall be binding upon all Unit Owners as hereinafter defined. In consideration of receiving and by acceptance of a grant, devise or mortgage, all grantees, devisees or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions hereof, the Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and the Bylaws of the Association and Master Association all hereinafter defined. Both the benefits provided and the burdens imposed shall run with each Unit and the interests in Common Elements as defined herein.

2. **CONDOMINIUM NAME AND ADDRESS.** The name by which this condominium is to be identified is **WHISKEY POINTE, A CONDOMINIUM**, sometimes hereinafter referred to as the "Condominium". The street address for this condominium is 4001 Whiskey Pointe Lane, Bonita Springs, Florida 33923.

THIS INSTRUMENT PREPARED BY:

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Naples, Florida 33963

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3. **THE LAND.** The land submitted to the condominium form of ownership by this instrument is designated as WHISKEY POINTE, A Condominium, Phase I, and is located in Lee County, Florida, and is described on attached Exhibit DC-1. This property is sometimes hereinafter referred to as the "Land."

A survey of Phase I is attached to this instrument as Exhibit DC-8.

4. **PHASE DEVELOPMENT PLAN.**

A. This condominium is a phased condominium, having a potential for a maximum of five (5) buildings and thirty-nine (39) condominium units. It is anticipated that this condominium will be developed in five (5) phases. All phases shall be collectively known as **WHISKEY POINTE, A Condominium** with each of the phases, if constructed, to be designated and known as follows:

PHASE	DESIGNATION
First	WHISKEY POINTE, A Condominium Phase I
Second	WHISKEY POINTE, A Condominium Phase II
Third	WHISKEY POINTE, A Condominium Phase III
Fourth	WHISKEY POINTE, A Condominium Phase IV
Fifth	WHISKEY POINTE, A Condominium Phase V

B. WHISKEY POINTE, A Condominium, Phase I is being created by this instrument, and is located on the property described on attached Exhibit DC-1.

5. **POTENTIAL ADDITIONAL LAND.** The developer, in its sole discretion, may but is not obligated to, submit additional land to the condominium form of ownership as additional phases or common elements of this condominium as hereinafter provided. The additional land which may be so added to this condominium is identified and described on exhibits designated as follows:

Phase II - Exhibits DC-2-A & DC-2-B
Phase III - Exhibit DC-3
Phase IV - Exhibit DC-4
Phase V - Exhibit DC-5
Recreation Parcel - Exhibit DC-12

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The developer reserves the right to make non-material changes in the legal descriptions of any of the phases that are added to this condominium.

6. **ENTIRE PARCEL.**

A. A description of the entire condominium parcel, if all five (5) phases and the Recreation Parcel are developed and submitted to this condominium, is contained as attached Exhibit DC-6.

B. A boundary survey of the entire parcel, if all phases are developed, is attached as Exhibit DC-7.

C. A sketch of descriptions of the various phases, if all phases are developed, is attached as Exhibit DC-8.

D. A potential plot plan, if all phases are added, is attached as Exhibit DC-9. The developer reserves the right to make changes in the configuration of the proposed buildings or units in any future phases added provided the changes do not result in an increase in the maximum number of units provided for elsewhere in this Declaration.

E. In the event the Developer chooses not to add any of the additional phases to this condominium, the Developer shall have the right to use the land described for such possible additional phases in any manner permitted by law, including the development of a separate condominium.

7. **CONDOMINIUM IMPROVEMENTS.**

A. The improvements comprising Phase I, shall be developed on the property described on Exhibit DC-1 attached to the Declaration of Condominium:

B. The improvements in Phase I shall consist of the following:

1. One building, designated as Building 2, which shall contain ten (10) residential units. Five (5) of the units, identified as Units 201, 202, 203, 204 and 205, are located on the ground floor of the building. Five of the units, identified as Units 206, 207, 208, 209 and 210 are located on the upper level.

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11. Units 201, 203, 206 and 208 contain three (3) bedrooms and two (2) baths. The remaining units have two (2) bedrooms and two (2) baths.

C. A copy of floor plans for the units in Phase I is attached to the Declaration of Condominium as Exhibit DC-11 showing the approximate dimensions of the units within that phase.

7.1 The total number of Units in Phase I of this condominium is ten (10) and a list of such units and their identifying numbers is attached to the Declaration of Condominium as Exhibit DC-13.

7.2 A copy of the typical floor plan for each of the units in Phase I is attached as Composite Exhibit DC-11, showing the approximate dimensions of the unit's components.

8. **SURVEY AND PLOT PLAN.** A survey for Phase I is attached as Exhibit DC-8, and a Plot Plan as Exhibit DC-10.

9. **COMPLETION OF VARIOUS PHASES.**

A. The improvements comprising WHISKEY POINTE, A Condominium, Phase I, will be substantially complete upon recording of a Surveyor's Certificate identified as Exhibit DC-16, attached to this document or a subsequent amendment.

B. The improvements comprising additional phases, if any, to be submitted to the condominium form of ownership as a part of this condominium complex shall be added to this condominium before seven (7) years from the date of recording this Declaration of Condominium.

10. **UNITS AND BUILDINGS IN ADDITIONAL PHASES.** If additional phases are created as a part of WHISKEY POINTE, A Condominium, the number of units anticipated to be added by each phase shall be as follows:

PHASE	NUMBER OF BUILDINGS	MINIMUM NUMBER OF UNITS	MAXIMUM NUMBER OF UNITS
Phase II	1	5	5
Phase III	1	6	6
Phase IV	1	8	8
Phase V	1	10	10

The maximum number of buildings that may be contained in the condominium if all phases are developed is five (5).

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The maximum number of units that may be contained in the condominium, if all phases are developed, is thirty-nine (39).

11. **DEFINITIONS**. In addition to the definitions set out in the Condominium Act, the following is the meaning of terms used in this document:

11.1 **Assessment**. Assessment means a share of the funds required for the payment of Common Expenses which from time to time are assessed against any Unit Owner.

11.2 **Association**. Association means WHISKEY POINTE OF BONITA BAY CONDOMINIUM ASSOCIATION, INC.

11.3 **Common Elements**. The term "Common Elements," as used herein, shall mean and comprise:

(a) All of the real property of the Condominium except units including, without limitation: (1) easements through units for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and/or fixtures for the furnishing of utility services, heating and cooling and/or ventilation to units and common elements; and (2) easements of support in every portion of a unit which contributes to the support of other units and/or common elements; and (3) installations for the furnishing of utility services to more than one unit or to the common elements or to a unit other than the unit containing the installation; and (4) the property and installations in connection therewith required for the furnishing of services to more than one unit or to the common elements; and (5) fixtures owned or held for the common use, benefit and enjoyment of all owners of units in the Condominium.

(b) All tangible personal property used for the enjoyment or maintenance of other common elements.

(c) Any other portions of the condominium designated as common elements by this Declaration or any amendment hereto.

11.4 **Common Expenses**. Common expenses include:

(a) Expenses of administration; expenses of insurance, maintenance, operation, repair, replacement and betterment of the common elements and of the portions of the units to be maintained by the Association.

(b) Expenses declared to be common expenses by the Declaration or by the Bylaws of the Association, and any valid

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charge against the property as a whole, including assessments made by the Master Association.

11.5 **Common Surplus**. Common Surplus means the excess of all receipts of the Association collected on behalf of the condominium, including assessments, rents, profits or other revenue on account of the common elements over the total common expenses for a given period.

11.6 **Condominium Property**. Condominium Property means and includes all lands that are subjected to condominium ownership, whether or not continguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the Condominium.

11.7 **Developer**. Developer means LUNDSTROM-McDONALD DEVELOPMENT, INC., A Florida Corporation, and its successors and assigns.

11.8 **Guest**. Guest means any individual who is physically in or occupies a unit with the consent of a unit owner without the payment of consideration.

11.9 **Lease**. Lease means the granting by a unit owner to an individual or individuals of a right to the temporary use of the owner's unit for a valuable consideration.

11.10 **Limited Common Elements**. "Limited Common Elements" as the term is used herein, shall mean and comprise the common elements which are reserved herein, or assigned or granted separately herefrom for the use of a certain unit or units to the exclusion or other units.

The following elements are hereby specifically designated as Limited Common Elements;

(a) **Parking Spaces**. The parking spaces specifically assigned to the exclusive use of individual units. The cost of maintenance for all parking spaces shall be assessed as a common expense to all units.

(b) **Terraces and Balconies**. Any terraces or balconies not a part of a unit but serving only one unit and accessible only through the unit are deemed to be limited common elements of the unit being served.

11.11 **Master Association**. Master Association means the BONITA BAY COMMUNITY ASSOCIATION, INC., the non-profit Florida corporation

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responsible for the maintenance, landscaping and other matters of common interest to residents of Bonita Bay.

11.12 **Master Declaration**. Master Declaration means the Declaration of General Protective Covenants and Restrictions of Bonita Bay, as recorded in OR Book 1778, pages 3516 through 3549, as amended by instruments recorded in OR Book 1907, pages 1246 through 1253, and OR Book 1916, pages 1601 through 1608, all Public Records of Lee County, Florida.

11.13 **Primary Occupant**. When legal title to a unit is held in the name of a corporation, trust, other entity or multiple names, one individual shall be designated by such title holder or holders and when approved for occupancy, as elsewhere provided, such individual shall be the primary occupant and shall be deemed the unit owner for purposes of exercising rights under this Declaration and shall be responsible for meeting the obligations of a unit owner.

11.14 **Rules and Regulations**. Rules and Regulations means and refers to the administrative rules and regulations promulgated and adopted by the Board of Directors of the Association from time to time concerning the use and occupancy of the condominium property.

11.15 **Units**. The term units, as used herein, shall mean the separate dwelling units, which have been declared to be a part of WHISKEY POINTE, A Condominium. Each unit, sometimes hereinafter referred to as an unit, shall include that part of the building that lies within the following boundaries:

(a) **Unit Boundaries**. Each unit shall include that part of the building containing the unit that lies within the boundaries of the unit, which boundaries are as follows:

(1) Upper and lower boundaries. The upper and lower boundaries of the unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:

i. Upper boundary - in all units located on the floors below the top floor of a building, the upper boundary shall be the horizontal plane of the unfinished lower surface of the ceiling. In all units located on the top floor, the upper boundary shall follow the contour of the interior unfinished surface of the drywall attached to the underside of the roof trusses.

ii. Lower boundary - the horizontal plane of the unfinished upper surface of the concrete floor of the unit.

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(b) **Perimetrical Boundaries**.

i. The perimetrical boundaries of the unit shall be the vertical planes of the unfinished interior surfaces of the outermost walls bounding the unit, including the screened walls of the patio, extended to intersections with each other and with the upper and lower boundaries.

ii. Where there are apertures in any boundary, including, but not limited to, windows and doors, such boundaries shall be extended to the interior finished surfaces of the material within such apertures, including all framework thereof.

iii. Exterior surfaces made of glass and other transparent material in the walls of the unit, and all framings, casings and hardware therefore are exclude from the unit.

iv. No part of the non-structural interior partition walls within an apartment shall be considered part of the boundary of a unit.

v. Not included in the units are all pipes, ducts, vents, wires, conduits, and other facilities, equipment or fixtures running through any interior wall, or horizontal or vertical portion of a unit for the furnishing of utility services, heating, cooling or ventilation to units, common elements or limited common elements.

(c) **Balconies and Patios**. A unit shall include the balcony or patio shown on the Exhibits attached to this Declaration. The boundaries of the balcony and/or patio shall be as follows:

All lower and perimetrical boundaries shall be the same as set forth above; however, should a perimetrical boundary be railing, then the unit shall include the railing and the boundary shall be the exterior surface of the railing. Maintenance of the finished floor of the balcony and/or patio shall be borne by the unit owner to which the balcony and/or patio is appurtenant. Each balcony which is a part of the unit which it abuts is for the exclusive use of the owners of such unit, provided, however, no unit owner shall paint or otherwise decorate or change the appearance of any exterior portion of the condominium building.

11.16 **Utility Services**. Utility services as used in the Condominium Act and as construed with reference to this condominium, and as used in the Declaration and Bylaws, shall include but not be

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limited to electric power, gas, hot and cold water, heating, refrigeration, air conditioning and garbage and sewage disposal.

12. **APPURTENANCES.** There shall pass with a unit as appurtenances thereto the following:

12.1 An undivided fractional share in the common elements and common surplus, as provided for elsewhere in this Declaration.

12.2 The right to use exclusively, or in common with certain other units where so specified, those portions of the common elements designated and/or reserved herein and/or granted elsewhere to a certain unit or units as limited common elements.

12.3 An exclusive easement for the use of the air space occupied by the unit as it exists at any particular time and as it may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is permanently vacated.

12.4 Non-exclusive easements, to be used and enjoyed in common with the owners of all units in the Condominium, for use of those common elements not designated elsewhere herein as limited common elements, including without limitation, easements for:

The furnishing and maintenance of public utility services to all parts of the real property of the Condominium over, across, in and through the land, buildings and other improvements, as the fixtures and equipment therefore now exist and/or may be modified or relocated.

12.5 The non-exclusive right of ingress and egress over streets, walks, rights-of-way serving the units of the Condominium as part of the common elements necessary to provide reasonable access to the public ways.

12.6 An exclusive easement for the unintentional and non-negligent encroachment by any unit upon any other unit or common element, or vice versa, for any reason not caused by or resulting from the willful or negligent act of Developer or any unit owner or owners, including without limitation, encroachments caused by or resulting from the original construction of improvements which exclusive easement shall exist at all times during the continuance of such encroachment, as an easement appurtenant to the encroaching unit or other improvement, to the extent of such encroachment.

12.7 An exclusive easement for the use of the area of land and air space occupied by the air conditioning compressor, and the equipment and fixtures appurtenant thereto, situated in and/or on Common Elements of the Condominium but exclusively serving and individually owned by the owner of the Unit, as the same exist in

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and on the building, as shown on the attached Exhibits, which exclusive easement shall be terminated automatically in any air space which is permanently vacated by such air conditioning compressor, and the equipment and fixtures appurtenant thereto; provided, that the removal of the same for repair and/or replacement shall not be construed to be a permanent vacation of the air space which it occupies.

12.8 A perpetual easement for ingress and egress to and from their Units over and upon stairs, terraces, balconies, walks and other Common Elements intended for such purposes.

12.9 The right to membership in the "Association", upon the terms and conditions set forth elsewhere herein.

12.10 A specifically assigned covered parking space with the right of assignment initially retained by the developer. After the non-developer related unit owners obtain control of the Association, the right of assignment shall rest with the Association. Once a parking space has been assigned to a unit it cannot be re-assigned from that unit without the specific written consent of the owner of the unit from which it is being re-assigned.

13. **OWNERSHIP OF COMMON ELEMENTS.**

A. Each of the Unit Owners of the Condominium shall own an undivided interest in the Common Elements and Limited Common Elements, which undivided interest shall be, based upon a fraction, the numerator of which shall be one (1) and the denominator of which shall be the total number of Units that have been created from time to time and made a part of this Condominium either by this original Declaration of by any amendment to this Declaration.

B. The fee title to each Condominium Parcel shall include both the Condominium Unit and the above described undivided interest in the Common Elements, said undivided interest in the Common Elements to be deemed to be conveyed or encumbered with its respective Condominium Unit. Any attempt to separate the fee title to a Condominium Unit from the undivided interest in the Common Elements appurtenant to each Unit shall be null and void. The term "Common Elements", when used throughout this Declaration, shall mean both Common Elements and Limited Common Elements, unless the context otherwise specifically requires a different meaning.

C. Upon recording of this instrument, which creates WHISKEY POINTE, A Condominium, Phase I, each of the units shall initially own an undivided interest in the Common Elements and Limited Common Elements as set forth on the list attached as Exhibit DC-13. Upon submission of additional phases the fractional share of

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such ownership shall change according to the formula set forth above.

14. **COMMON EXPENSES AND SURPLUS.**

A. The Common Expense and Common Surplus of the Condominium shall be shared by the Unit Owners based upon a fraction, the numerator of which is one (1) and the denominator of which shall be the total number of Units that have been created from time to time and made a part of this Condominium either by this original Declaration of by any amendment to this Declaration. The foregoing ratio of sharing Common Expenses and assessments shall remain, regardless of the purchase price of the Condominium Parcels, their location, or the building square footage included in each condominium unit.

B. Any Common Surplus of the Association shall be owned by each of the Unit Owners in the same proportion as their fractional ownership interest in the Common Elements, any Common Surplus being the excess of all receipts of the Association from this Condominium including, but not limited to, assessments, rents, profits and revenues on account of the Common Elements of this Condominium over the amount of the Common Expenses of this Condominium.

C. Upon recording of this instrument which creates WHISKEY POINTE, A Condominium, Phase I, the Common Expenses and Common Surplus of the Condominium shall initially be shared by the Unit Owners as set forth on the list attached as Exhibit DC-13. Upon submission of additional phases, the fractional share of the Common Expenses and Common Surplus shall be shared according to the formula set forth above.

15. **AMENDMENT TO PLANS.**

A. Developer reserves the right to change the interior design and arrangements of all Units and to alter the boundaries between the Units so long as Developer owns the Units so altered. No such change shall increase the number of Units nor alter the boundaries of the Common Elements without amendment of this Declaration. If more than one Unit is involved, the Developer shall apportion between the Units the shares of the Common Elements which are appurtenant to the Units concerned.

B. The Amendment of this Declaration reflecting such authorized alteration of plans by Developer need only be signed and

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acknowledged by the Developer, and need not be approved by the Association, Unit Owners, lienors or Mortgagees, whether or not their joinder is elsewhere required for other amendments.

16. **BONITA BAY COMPLEX**. This condominium is located on land which forms a part of an overall subdivision development known as Bonita Bay. All unit owners in this condominium by virtue of such ownership also become members of a non-profit organization known as BONITA BAY COMMUNITY ASSOCIATION, INC. BONITA BAY COMMUNITY ASSOCIATION, INC., hereinafter referred to as the "Master Association", which has control of roads and green areas within Bonita Bay (the "Master Association Property") for the benefit of the Unit Owners in WHISKEY POINTE, A Condominium and all unit owners of other condominiums, lots, parcels or villas located in Bonita Bay. The Master Association Property is operated and managed through the Master Association so that there may be common control, unity and policy to promote, enhance and protect such property throughout Bonita Bay.

By virtue of such membership in the Master Association, each unit owner of this Condominium, in addition to any assessments provided for in this Declaration, shall be subject to assessments by the Master Association and shall have any rights or obligations incidental to membership in that organization.

17. **RESTRICTION ON TIME-SHARE ESTATES**. Time-share estates, as defined by the Condominium Act shall not be created, nor permitted with regard to any units in any phases of WHISKEY POINTE, A Condominium.

18. **EASEMENTS**.

A. Owners of units shall have as appurtenances to the units all easements set forth in paragraph 12 above.

B. The Condominium Property shall be subject to perpetual easements for encroachments presently existing or which may hereafter be caused by settlement or movement of the Condominium Building or minor inaccuracies in construction, which easements shall continue until such encroachments no longer exist. If the Condominium Property is destroyed and the rebuilt, encroachments due to construction shall be permitted and a valid easement for said encroachments shall exist. If any portion of the Common Elements encroaches upon any Unit, or any Unit encroaches upon the Common Elements, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the improvements

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contained in the Condominium Property, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

C. Easements are reserved throughout the Condominium Property as may be required to privide Utility Services in order to adequately serve the Condominium Property, provided, however, that such easements through a Unit shall be in accordance with the plans and specifications for the Condominium Building, or as said Building is constructed, unless otherwise approved in writing by the Unit Owner.

D. An easement is created for pedestrian traffic over, through and across sidewalks, paths, walks and lanes as the same may from time to time exist upon the Common Elements, and for vehicular traffic over, through and across such portions of the Common Elements as may from time to time be paved and intended for such purposes, but the same shall neither give nor create in any person the right to park upon any portions of the Condominium Property except those areas specifically assigned for such purpose. The parking areas, private roads and other Common Elements contained within the Condominium Property shall be used in common by Unit Owners in this Condominium and their family members, guests, invitees and tenants for the purposes for which same are intended.

E. Notwithstanding anything contained herein or in the Survey and Plot Plan being recorded together herewith to the contrary, it is expressly understood that the Common Elements shall be and are hereby irrevocably made subject to easements for the installation and maintenance of utility lines, equipment and services for the benefit of this Condominium and all other owners of property in the Bonita Bay Complex. The streets, walks and other rights of way serving the Units as a part of the Common Elements necessary to provide reasonable access to the public ways are hereby made subject to non-exclusive easements for ingress and egress for the benefit of the Units and are further made subject to permanent non-exclusive easements for pedestrian and vehicular ingress and egress, as the case may be, between and among all present and future owners of property in the Bonita Bay Complex, for the benefit of all Units in such Complex. Any Mortgagee consenting to this Declaration does hereby subject its rights to said easements.

F. There is hereby reserved a perpetual easement upon, over, under and across the Condominium Property for the purpose of maintaining, operating, installing, repairing, altering sewer lines, water lines, waterworks, sewer works, force mains, lift stations,

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water mains, sewer mains, water distribution systems, sewage disposal systems, effluent disposal systems, pipes, weirs, syphons, valves, gates, pipelines, and all machinery and apparatus appurtenant thereto all of the foregoing as may be necessary or desirable for the operation as may be necessary or desirable for the operation and maintenance of the water management system.

G. The Developer hereby reserves to itself, its successors and assigns, a perpetual easement, privilege and right in and to, over, under, on and across the Common Elements for ingress and egress as required by its officers, directors, employees, agents and/or independent contractors and invitees in order to show said properties and facilities to prospective purchasers and other invited guests, post signs and maintain sales offices; provided, however, that such access and use do not unnecessarily interfere with the reasonable use and enjoyment of these properties and facilities by the Unit Owners.

H. There is hereby granted to delivery, pickup and fire protection services, police and other authorities of the law, United States mail carriers, representatives of electrical, telephone, cable television and other utilities authorized by the Developer, its successors or assigns to service the Condominium Property, and to such other persons as the Developer from time to time may designate, the non-exclusive, perpetual right of ingress and egress over and across the Common Elements for the purposes of performing their authorized services and investigation.

I. The Condominium Property shall be subject to such easements for utilities as may be required to properly and adequately serve the Condominium Property as it exists from time to time. Each of said easements, whether heretofore or hereafter created, shall constitute covenants running with the land of the Condominium and, notwithstanding any other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonable interfere with its proper and intended use and purpose and shall survive the termination of the Condominium. To the extent that the creation of any such utility easements require the joinder of Unit Owners, the Developer by its duly authorized officers may, as the agent or the attorney-in-fact for the Unit Owners, execute, acknowledge and deliver such instruments and the Unit Owners, by the acceptance of deeds to their Units, irrevocably nominate, constitute and appoint the Developer, through its duly authorized officers, as their proper and legal attorneys-in-fact for such purpose. Said appointment is coupled with an interest and is therefore irrevocable. Any such instrument executed

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pursuant to this Article should recite that it is made pursuant to this Article.

19. **ASSOCIATION**. The operation of the Condominium shall be by WHISKEY POINTE OF BONITA BAY CONDOMINIUM ASSOCIATION, INC., a corporation not for profit under the laws of Florida, which shall fulfill its functions pursuant to the following provisions:

19.1 **Articles of Incorporation**. A copy of the Articles of Incorporation of the Association is attached as Exhibit DC-14 and incorporated by reference herein.

19.2 **Bylaws**. The Bylaws of the Association shall be the Bylaws of the condominium, a copy of which is attached as Exhibit DC-15 and incorporated by reference herein.

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

19.4 **Restraint Upon Assignment of Shares in Assets**. The share of each member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his unit.

19.5 **Approval or Disapproval of Matters**. Whenever the decision of a unit owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who is entitled to cast the vote of such owner at an Association meeting, unless the joinder of record owners is specifically required by this Declaration.

19.6 **Membership in Association**. All of the record owners of units in the condominium shall be members of the Association.

19.7 **Right of Access**. The Association shall have an irrevocable right of access to each Unit at reasonable hours as may be necessary for the maintenance, repair or replacement of any Common Elements therein, or accessible therefrom, or at any hour for making emergency repairs necessary to prevent damage to the Common Elements or to another Unit.

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19.8 **Association Contracts**. The Association subject to any restraints by Chapter 718 of the Florida Statutes, shall have the power to enter into contracts with others for the maintenance, management, operation, repair and servicing of the Condominium Property and in connection therewith, to delegate the powers and rights therein contained, including that of levying and collecting Assessments from Unit Owners and perfecting and enforcing liens for non-payment. The service and maintenance contracts referred to herein may delegate the Associations's duty to maintain and preserve the landscaping, gardening, painting, repairing and replacement of the Common Elements, but shall not relieve each Unit Owner from his personal responsibility to maintain and preserve the interior surfaces of his Unit and to paint, clean, decorate, maintain and repair said Unit. Each Unit Owner, by his acceptance of the Deed to his Unit, shall bind himself, his heirs, personal representatives, successors and assigns to any management contract, to the same extent and effect as if he had executed such contract for the purposes herein expressed including, but not limited to, adopting, ratifying, confirming and consenting to the execution of same by the Association, covenanting and promising to perform each and every of the covenants, promises and undertakings to be performed by Unit Owners as required under said contract, acknowledging that all of the terms and conditions thereof, including the manager's fee are reasonable and agreeing that the persons acting as directors and officers of the Association entering into such a contract have not breached any of their duties or obligations to the Association by virtue of the execution of said contract. The management contract, if any, and the acts of the Board of Administration and Officers of the Association in entering into such agreement, are hereby ratified, confirmed, approved and adopted.

19.9 **Easement Agreements**. The Association shall have the power to enter into easement agreements with other condominium associations which give and grant mutual easements over and across the Common Elements of this Condominium and other condominiums in favor of Unit Owners at this Condominium and unit owners at said other condominiums without any joinder of Unit Owners at this Condominium being required. The Association shall also have the power to modify, alter and amend any such easement agreements and the easements granted thereby without any joinder of Unit Owners at this Condominium being required. The easement agreements referred to herein may grant Unit Owners at other condominiums the right to use the Common Elements of this Condominium in exchange for a grant of the right to Unit Owners at this Condominium to use the common elements of said other Condominiums. Each Unit Owner, by his acceptance of the Deed to his Unit, shall bind himself, his heirs,

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personal representatives, successors and assigns, to any any such easement agreement and to any modification, alteration or amendment thereof to the same extent and effect as if he had executed such agreement for the purposes therein and herein expressed, including, but not limited to, adopting, ratifying, confirming and consenting to the execution of same by the Association, covenanting and promising to perform each and every of the covenants, promises and undertakings to be performed by Unit Owners as required under said easement agreement, acknowledging that all of the terms and conditions thereof are reasonable and agreeing that the persons acting as directors and officers of the Association entering into such an easement agreement have not breached any of their duties or obligations to the Association by virtue of the execution of said easement agreement. The easement agreement, if any, and the acts of the Board of Administration and officers of the Association in entering into such agreement are hereby ratified, confirmed, approved and adopted. Each Unit Owner, by his acceptance of the Deed to his Unit, does irrevocably constitute and appoint the Association as his attorney-in-fact for the purpose of entering into the above described easement agreements, the giving and granting of the easements contained therein and the exception of any modifications, amendments or alterations thereof.

19.10 **Rules and Regulations**. The Association shall have the power to adopt reasonable rules and regulations for the maintenance and conservation of the Condominium Property, and for the health, comfort, safety and welfare of the Unit Owners, all of whom shall be subject to such rules and regulations.

19.11 **Voting Rights in Association**.

A) At each meeting of the Association, the owner of each unit shall be entitled to one vote. Where a unit is owned by more than one person, the vote for such unit shall be cast by any one of the owners of a unit or the primary occupant as herein before defined. If the right of the individual casting the vote for the unit is challenged by any other person or entity having an ownership interest in the unit, then the vote for that unit shall not be permitted or counted unless or until all entities having an ownership interest in the Unit agree as to which of them shall have the right to vote.

B) When a Corporation is the owner of a unit the vote for that unit may be cast by any director or officer of the corporation unless there is a dispute by an officer, director or stockholder of the corporation as to who holds such right and the Association is

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notified of such dispute in which case the Corporation shall have to produce a corporate resolution naming the proper person to cast the vote or the vote for that unit before the vote of unit will be considered on the matter before the Association.

C) When the unit is owned in the name of a Partnership or Trust, any partner or trustee shall have the right to cast the vote for the unit unless it is challenged by another partner, trustee or beneficiary in which case the vote shall not be considered unless adequate proof of the right to cast the vote is presented to and accepted by the Board of Directors.

D) The total number of votes in the Association shall initially be ten (10). If and as additional phases are added, the total number of votes shall increase according to the total number of units actually submitted to this condominium. The maximum number of voting units, if all phases are added, shall be thirty-nine (39).

20. **ASSESSMENTS**. To provide the funds necessary for proper operation and management of the Condominium, the Association has been granted the right to make, levy and collect assessments against the owners of all units. The following provisions shall govern the making, levying and collecting of such assessments and the payment of the costs and expenses of operating and managing the Condominium by the Association.

20.1 **Determination of Common Expenses**. The Association, through its Board of Directors, shall have the power to determine and fix the sums necessary to provide for the Common Expenses, including the expense allocable to services being rendered by a management company with whom the Association or Master Association may contract. The Assessments shall include a share of the assessments ("Master Assessments") levied on the Association or Association Owners, by the Master Association for operation and maintenance of the Master Association Property. Each Unit Owner, by his acceptance of the Deed for his Unit is deemed to covenant and agree to pay to the Association, as part of its Assessments for Common Expenses, its percentage share of the assessments levied by the Master Association in accordance with the terms of the Master Declaration, the Master Articles of Incorporation, and the Master Bylaws. Unless specifically waived by the Association, the Assessments shall include monies required for the payment of hazard and liability insurance premiums. A Unit Owner, regardless of the manner in which he acquired title to his unit including, without limitation, a purchaser at a judicial sale, shall be liable for all Assessments while he is the owner of a Unit. In a voluntary conveyance of a

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Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the latter for his share of the Common Expenses up to the time of such voluntary conveyance.

20.2 **Determination of Assessments.** Assessments by the Association against each owner of a unit, and his unit shall be the prorata share of the total assessments to be made against all owners of units and their units according to the formula set forth in paragraph 14 above. Should the Association become the owner of any unit(s), the assessment which would otherwise be due and payable to the Association by the owner(s) of such unit(s), reduced by an amount of income which may be derived from the leasing of such unit(s) by the Association, shall be apportioned and the assessment therefore levied ratably among the owners of all units which are not owned by the Association, based upon their proportionate interests in the common elements exclusive of the interests therein appurtenant to any unit or units owned by the Association.

20.3 **Time for Payment.** The assessment levied against the owner of each unit for his unit shall be payable quarterly on January 1, April 1, July 1, and October 1, of each year, or for such other periods and on such other dates as shall from time to time be fixed by the Board.

20.4 **Annual Budget.** The Board of Directors shall, in accordance with the Bylaws of the Association, establish an annual budget for each fiscal year, which shall estimate all expenses for the forthcoming year required for the proper operation, management and maintenance of the Condominium including a reserve fund, unless appropriately waived by a majority of unit owners. The budget shall estimate all income to be collected during the year. The reserve fund shall include reserve accounts for capital expenditures and deferred maintenance as required by law.

20.5 **Use of Association Funds.** All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles and Bylaws. As the monies for annual assessments are paid to the Association by the unit owner, the same may be co-mingled with monies paid to the Association by the other owners of units. All funds and other assets of the Association, and any increments thereto, or profits derived therefrom or from the leasing or use of common elements, including without limitation, common surplus, shall be held for the

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benefit of the members of the Association. No member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his unit.

20.6 **Delinquency or Default**. The payment of any assessment or installment thereof due to the Association shall be in default if not paid to the Association on or before five (5) days after the due date thereof. When in default, the delinquent assessments or installments thereof shall bear interest at the rate of fifteen (15%) percent per annum until the same, and all interest due thereon, has been paid in full.

20.7 **Personal Liability of Unit Owner**. The owner(s) of each unit shall be personally liable, jointly and severally, as the case may be, to the Association for the payment of all assessments, regular or special, interest on such delinquent assessments or installments thereof as above provided, and for all costs of collecting the assessments and interest thereon, including a reasonable attorney's fee, whether suit be brought or not, levied or otherwise coming due while such person(s) or entity own(s) a unit.

20.8 **Liability not Subject to Waiver**. No owner of a unit may exempt himself from liability for any assessment levied against such owner and his unit by waiver of the use or enjoyment of any of the common elements, or by abandonment of the unit, or in any other manner.

20.9 **Lien for Assessment**. The Association is has a lien upon each unit and its appurtenant undivided interest in common elements and upon any limited common elements appurtenant to any such unit, which lien shall and does secure the monies due for all: (1) assessments levied against the unit and the owner(s) thereof; and (2) interest, if any, which may become due on delinquent assessments owing to Association; and (3) costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing its lien upon the unit and its appurtenances. The lien granted to the Association may be established and foreclosed in the Circuit Court in and for Lee County, Florida.

20.10 **Recording of Priority of Lien**. The lien of the Association shall be effective from and after recording in the Public Records of Lee County, Florida, a claim of lien stating the description of the Unit encumbered thereby, the name of the record owner, the amount and date when due, and shall not continue in effect for a longer period than one (1) year after the Claim of Lien is recorded.

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unless within that time, an action to enforce the lien is commenced in a Court of competent jurisdiction. Such claims of lien shall include only assessments which are due and payable when the Claim of Lien is recorded, plus interest, costs, and attorney's fees. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The lien of the Association shall be subordinate to the lien of any mortgage or any other lien recorded prior to the time of recording the Association's claim of lien.

20.11 **Effect of Foreclosure or Judicial Sale**. In the event that any person, bank, firm or corporation shall acquire title to any Unit and its appurtenant undivided interest in Common Elements by virtue of any foreclosure or judicial sale, or by a banking institution by a Deed in lieu of foreclosure, such person, bank, firm or corporation so acquiring title shall only be liable and obligated for assessments as shall accrue and become due and payable for the Unit and its appurtenant undivided interest in Common Elements subsequent to the date of acquisition of such title, and shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title, except that such person, bank, firm or corporation shall acquire such title subject to the lien of any assessment by Association representing an apportionment of taxes or special assessment levied by tax authorities against the Condominium in its entirety. In the event of the acquisition of title to a Unit by foreclosure or judicial sale, any assessment or assessments for the period prior to such acquisition, as to which the party so acquiring title shall not be liable, shall be absorbed and paid by all owners of all units as a part of the Common expense, although nothing herein contained shall be construed as releasing the party personally liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure. Notwithstanding the foregoing, a mortgagee or other party acquiring title to a unit by foreclosure shall not during the period of such ownership, whether or not the unit is occupied, be excused from the payment of all normal and special assessments against the unit owners during the period of such ownership.

20.12 **Assignment**. The Association, acting by and through its Board of Directors, shall have the right to assign its claim for any unpaid Assessments and the lien securing said claim to the Developer or to any Unit Owner, group of Unit Owners or any third party.

20.13 **Effect of Voluntary Transfer**. When the owner of any unit proposes to sell the same in compliance with other provisions of

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this Declaration, the Association, upon written request of the owner of such unit, shall furnish to the proposed purchaser a statement verifying the status of payment of any assessment which shall be due and payable to the Association by the owner of such unit. Such statement shall be executed by any officer or Agent of the Association and any purchaser may rely upon such statement in concluding the proposed purchase transaction, and the Association shall be bound by such statement.

In the event that a unit is to be sold at the time when payment of any assessment against the owner of the unit due to the Association shall be in default (whether or not a claim of lien has been recorded by the Association), then the proceeds of such sale shall be applied by the purchaser first to payment of any then delinquent assessment or installment thereof due to the Association before payment of the balance of such proceeds to the owner of the Unit responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefore.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sum then remaining owing to it.

20.14 **Maintenance Assessments on Unsold Units.** Anything contained in this Declaration of Condominium to the contrary notwithstanding, until all of the units have been sold and title transferred to the owners, the Developer shall not be liable or obligated to pay its prorata share of the Common Expenses on any unsold units. From the date of recording the deed to the first purchaser of a unit other than the developer, until all the units have been sold by the Developer, or the Developer has turned over the operation of the Condominium to the Association, whichever first occurs, the Developer, as controling Director of the Association, shall be responsible for and shall control the maintenance and repair of the condominium property. During this period the

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Developer agrees to keep the Condominium property maintained in the proper manner and guarantees that the assessment for common expenses imposed on a Unit Owner shall not exceed a) $160.80 per month for the 1988 and 1989 budget year; b) $184.92 per month for the 1990 budget year; and c) $212.65 per month for the 1991 budget year. Any amount of common expenses incurred during the period prior to the Developer turning over control of the Association in excess of the assessments at the guaranteed level shall be paid by the Developer.

21. **USE RESTRICTIONS**. Use of the Condominium property shall be in accordance with the following provisions:

A) **Units**. Each of the Units shall be occupied overnight by no more than six (6) adults at any one time. The Units shall be used as a residence and for no other purpose. No Unit may be divided or subdivided into a smaller unit, nor any portion thereof sold or otherwise transferred, except as a complete Unit.

B) **Common Elements**. The Common Elements and Limited 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 unit owners.

C) **Nuisances**. No nuisances shall be allowed upon the Condominium property, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium property by residents. All parts of the Condominium property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor shall any fire hazard be allowed to exist. No use shall be made of any unit or of the Common Elements or Limited Common Elements which would increase the rate of insurance upon the Condominium property.

D) **Lawful Use**. No immoral, improper, offensive or unlawful use shall be made of the Condominium property or any part thereof; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement, modification or repair of the Condominium property shall be that of those responsible for the maintenance and repair of the property concerned.

E) **Leasing**. After approval by the Association elsewhere required, entire apartments may be rented provided the occupancy is

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only by the lessee and his family, its servants and guests. A Unit Owner may not lease a unit for more than four (4) separate leases or rentals during any one calendar year.

F) **Pets**. Each unit owner, with approval of the Board of Directors may have one small domesticated pet in his unit. All pets approved shall be maintained and controlled so as not to violate any ordinances or regulations of Lee County of any controlling governmental body. In the event that any pet kept on the premises shall constitute a nuisance in the opinion of a majority of the Board of Directors of the Association, then the owner, when so notified in writing, shall be required to immediately remove said pet from the premises. If an owner fails to remove a pet, after notice by the Board, the Board shall have the right to obtain an Order from the Court to this effect and all costs incurred in obtaining such Order, including attorney fees, shall be assessed against the owner and shall be a lien on the unit.

G) **Nothing to be Erected Upon Building or Common Elements**. No signs, advertisements or notices of any type, and no exterior antennas or aerials shall be erected upon the common elements, and no screen or glassing shall be added to the porches of the units; provided, however, the Board Directors in their regulations may vary this restriction.

H) **Regulations**. Reasonable regulations concerning the use of the Condominium property may be made and amended from time to time by the Board of Directors of the Association in the manner provided by its Articles of Incorporation and Bylaws. Copies of such regulations and amendment shall be furnished by the Association to all unit owners and residents of the Condominium upon request. Each unit owner shall abide by the regulations so promulgated.

I) **Proviso**. Provided, however, that until Developer has completed all of the contemplated improvements and closed the sales of all of the units in all phases of the Condominium, neither the unit owners nor the Association, nor the use of the Condominium property shall interfere with the completion of the contemplated improvements and sale of the units. Developer may make such use of the unsold units and common areas as may facilitate such completion and sale, including but not limited to maintenance of a sales office, the showing of the property and the display of signs.

J) **Children**. There are no restrictions on the use or occupancy of the condominium property or the individual units based upon the age of the person using or occupying the premises.

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22. **COMPLIANCE AND DEFAULT**. Each unit owner shall be governed by and shall comply with the terms of the Declaration of Condominium, the Articles of Incorporation and Bylaws of the Association, and any and all regulations adopted pursuant thereto, as they may be amended from time to time. Failure of the unit owner to comply therewith shall entitle the Association or other unit owners to the relief provided for in the following sub-paragraphs in addition to the remedies provided by the Condominium Act or the Bylaws.

22.1 **Delinquent Payment**. In the event a Unit Owner does not pay any sum, charge or Assessment required to be paid to the Association within ten (10) days from the due date, the Association, acting through its Board of Directors, may enforce its lien for Assessments or take such other action to recover the sum, charge or Assessment to which it is entitled in accordance with the Declaration and the laws of the State of Florida.

22.2 **Violation**. In the event of a violation of the provisions of the Declaration, the Articles of Incorporation or Bylaws, which violation is not corrected within ten (10) days after notice from the Association to the Unit Owner to correct said violation, the Association may take such action as it may deem appropriate, including the institution of legal action, to correct the violation. Nothing contained in this paragraph shall be construed to require that the Association furnish notice to any Unit Owner of his failure to pay any Assessment, sum or other charge due to the Association. In the event such legal action is brought against a Unit Owner and results in a judgment for the plaintiff, the defendant shall pay the plaintiff's reasonable attorneys' fees and court costs.

22.3 **Consent**. Each Unit Owner, for himself, his heirs, successors and assigns, agrees to the foregoing provisions regardless of the harshness of the remedy available to the Association and regardless of the availability of any other equally adequate procedures. It is the intent of all Unit Owners to give to the Association such powers and authority which will enable it to operate on a business-like basis, to collect those monies due and owing to it from Unit Owners, and to preserve each Unit Owner's right to enjoy his Unit fee from unreasonable restraint and nuisance.

22.4 **Negligence**. A Unit owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family or his or their guests, employees, agents, lessees or other

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invitees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. The responsibile Unit Owner shall reimburse the association for any increase in fire insurance rates occassioned by use, misuse, occupancy or abandonment of a unit or its appurtenances, or of the common elements.

22.5 **Costs and Attorney Fees**. In any proceeding arising because of an alleged failure of a unit owner to comply with the terms of the Declaration, the Articles of Incorporation and Bylaws of the Association, and any and all regulations adopted pursuant thereto, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney fees as may be awarded by the court. This paragraph shall apply to appellate proceedings as well as trial court proceedings.

22.6 **No Waiver of Rights**. The failure of the Association or any unit owner to enforce any covenant, restriction or other provisions of the Condominium Act, this Declaration, the Articles of Incorporation and Bylaws of the Association, or the regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

23. **MAINTENANCE OF COMMUNITY INTERESTS**. In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the units, the transfer of units by any owner other than the Developer shall be subject to the following provisions as long as the Condominium exists upon the land, which provisions each unit owner covenants to observe:

23.1 **Forms of Ownership**.

(a) A unit may be owned by one natural person who has qualified and been approved as elsewhere provided herein.

(b) **Co-ownership**. Co-ownership of units may be permitted. If the co-owners are other than husband and wife, the Board shall condition its approval upon the designation of one approved natural person as "primary occupant". The use of the unit by other persons shall be as if the primary occupant was the only actual owner. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift, subject to all the provisions of this Section.

(c) **Ownership By Trustee, Corporation Partnership, etc**. A unit may be owned in trust, or by a corporation, partnership or

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other entity which is not a natural person, if approved in the manner provided for other transfers of title. However, the intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the unit may be used as short term transient accommodations for several individuals or families. The approval of a trustee, or corporation or other entity as a unit owner shall be condition upon the designation of one natural person to be the "primary occupant". The use of the unit by other persons shall be as if the primary occupant were the only actual owner. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift, subject to all the provisions of this Section.

(d) Life Estate. A unit may be subject to a life estate, either by operation of law or by approved voluntary conveyance. In that event, the occupancy of the unit shall be as if the life tenant were the only owner. If there is more than one life tenant, their occupancy and voting rights shall be determined in the same manner as if the life tenants were co-owners of the unit. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy right unless separately approved by the Association. The life tenant and holders of the remainder interest shall be jointly and severally liable for all assessments and charges against the unit. The life tenant may, by signed agreement, transfer the right to vote in all Association matters to any one remainderman, subject to approval by the Association of such arrangement. If such a transfer has not occurred, and the consent or approval of the owner of the unit is required for any purpose, that consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, any one of them may act for all.

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23.2 Transfers Subject to Approval.

(a) Sale. No unit owner may dispose of a unit or any interest in a unit by sale without approval of the Association except to another unit owner.

(b) Gift. If any unit owner shall acquire his title by gift, the continuance of his ownership of his unit shall be subject to the approval of the Association.

(c) Devise or Inheritance. If any unit owner acquires his title by devise or inheritance, his right to occupy or use the unit shall be subject to the approval of the Board of Directors of the Association. The approval of the Association shall not be denied to

any devisee or heir who was the prior owner's lawful spouse at the time of his death, or was related to the owner by blood or adoption within the first degree.

(d) **Other Transfers**. If any unit owner shall acquire his title by any manner not considered in the foregoing subsections, the continuance of his ownership of such unit shall be subject to the approval of the Association.

23.3 **Approval by Association**. The approval of the Association that is required for the transfer of ownership of units shall be obtained in the following manner:

(a) **Notice to Association**.

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

(2) **Devise or Inheritance; other Transfers**. Any unit owner who has obtained his title by devise, inheritance, or by any other manner not previously considered, shall give to the Association notice of the acquiring of his title, together with such information concerning the unit owner as the Association may reasonably require, and a certified copy of the instrument evidencing the owner's title.

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

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(b) **Certificate of Approval**.

(1) **Sale**. If the proposed transaction is a sale, or gift, then within thirty (30) days after receipt of such notice and information, the Association must either approve or disapprove the proposed transaction. Failure to disapprove within said thirty (30) day period shall be deemed to be the equivalent of approval. If approved, the approval shall be stated in a certificate executed by any officer of the Association, which shall be recorded in the public records of Lee County, Florida, at the expense of the purchaser.

(2) **Devise or Inheritance; other Transfers**. If the unit owner giving notice has acquired his title by devise, inheritance, or in any other manner, then within thirty (30) days after receipt of such notice and information the Association must either approve or disapprove the continuance of the unit owner's ownership of his unit. If approved, the approval shall be stated in a certificate executed by any officer of the Association, which shall be recorded in the public records of Lee County, Florida, at the expense of the unit owner.

23.4 **Disapproval by Association**. If the Association shall disapprove a transfer of ownership of an unit, the matter shall be disposed in the following manner:

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

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

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

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

(4) A certificate of the Association executed by any officer approving the purchaser shall be recorded in the public records of Lee County, Florida, at the expense of the purchaser.

(5) If the Association shall fail to provide a purchaser upon the demand of the unit owner in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval, the proposed transaction shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided, which shall be recorded at the public records of Lee County, Florida, at the expense of the purchaser. If the selling unit owner defaults or unreasonably delays the procedure, the Association shall be relieved of all obligation to furnish a purchaser, and the alternate purchaser may abandon the transaction or seek specific performance or damages from the selling unit owner in a Court of Law.

(b) <u>Devise or Inheritance; other Transfers</u>. If the unit owner giving notice has acquired his title by devise, inheritance, or in any other manner, then within thirty (30) days after receipt from the unit owner of the notice and information required to be furnished, the Association shall deliver or mail by registered mail to the unit owner an agreement to purchase the unit concerned by a purchaser approved by the Association who will purchase and to whom the unit owner must sell the unit upon the following terms:

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

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

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

(4) A certificate of the Association executed by any officer approving the purchaser shall be recorded in the public records of Lee County, Florida, at the expense of the purchaser.

(5) If the Association shall fail to provide a purchaser as required by this instrument, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval such ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided, which shall be recorded in the public records of Lee County, Florida, at the expense of the unit owner. If the selling unit owner defaults or unreasonably delays the procedure, the Association shall be relieved of all obligation to furnish a purchaser, and the alternate purchaser may abandon the transaction or seek specific performance or damages from the selling unit owner in a Court of Law.

23.5 **Leasing Of Units**. All leases of units must be in writing. A unit owner may lease only his entire unit, and then only in accordance with this Section, after receiving the approval of the Association. The lessee shown on the Lease must be one natural person.

(a) **Procedures**

(1) **Notice**. An owner intending to lease his unit shall give to the Association written notice of such intention at least twenty (20) days prior to the proposed transaction, together with the name and address of the proposed lessee, a fully executed copy of the proposed lease, and such other information as the Board may reasonably require.

(2) **Approval**. After the required notice and all information requested has been provided, the Board shall approve or disapprove the proposed lease within twenty (20) days. If the Board neither approves nor disapproves within the time stated above, such failure to act shall be deemed the equivalent of approval, and on demand the Board shall issue a written letter of approval to the lessee.

(3) **Disapproval**. Approval of the Board shall be withheld only if a majority of the whole Board so votes, and in such

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case the lease shall not be made. The Board cannot approve a lease of a unit when the payment of assessments for that unit is delinquent.

(4) **Failure To Give Notice**. If proper notice is not given, the Association at its election may approve or disapprove the lease without prior notice. If it disapproves, the Association shall proceed as if it received notice on the date of such disapproval; however, the proposed lessee may provide the Board with the required notice and request reconsideration. Any lease entered into without approval or in violation of the above provisions shall, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the lessee with five (5) days notice, without securing consent to such eviction from the unit owner.

(5) **Application Form**. Applications for authority to lease shall be made to the Board of Directors on such forms and include such terms as the Board may, from time to time, provide. The legal responsibility for paying condominium assessments may not be delegated to the lessee.

(6) **Committe Approval**. To facilitate approval of leases proposed during times when many of the members are not in residence, the Board of Directors may, by resolution, delegate its approval powers to a committee, which shall consist of at least three (3) members.

(b) **Term of Lease and Frequency of Leasing**. No unit may be lease more than four (4) times in any calendar year. There shall be no maximum length of lease, but all leases for more than one year shall be deemed to include a provision reserving the right of the Association to approve or disapprove the continuance of the lease at annual intervals. No subleasing or assignment of lease rights by the lessee is allowed.

23.6 **Fees For Processing Applications For Approval**. Whenever the approval of the Association is required to allow the sale, lease or other transfer of an interest in an unit, the Association may charge the owner a present fee not to exceed $50.00 for processing the approval.

23.7 **Exceptions**.

(a) The provisions of this Article shall not be applicable to the Developer who is hereby irrevocably empowered without any limitation at all times, whether for permanent or temporary

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occupancy, to sell or transfer Units owned by Developer for any period under any terms without the consent of the Association. The Developer shall have the right to take any action necessary to consummate the sale or transfer of said Units, including, but not limited to the right to maintain model units within the Condominium Buildings, post signs, have employees in the offices maintained in the Condominium Buildings, use the Common Elements and show Units to prospective purchasers. Sales office signs and all items pertaining to sales shall not be considered Common Elements and shall remain the property of the Developer. The provisions of this subparagraph (a) shall not be amended without the prior written approval of the Developer.

(b) The foregoing provisions of this section entitled "Maintenance of community interests" shall not apply to a transfer or purchase by a bank, life insurance company or savings and loan association that acquires its title as the result of owning a mortgage upon the unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor, his successors or assigns, or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by a bank, life insurance company or savings and loan association that so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to an unit at a duly advertised public sale with open bidding provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale.

23.8 **Unauthorized Transactions**. Any sale or mortgage not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

24. **MAINTENANCE**. Responsibility for the maintenance of the Condominium property, and restrictions upon its alteration and improvement, shall be as follows:

24.1 **Units**.

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

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

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

All incidental damage caused to a unit by such work shall be repaired promptly at the expense of the Association.

(b) **By the Unit Owner**. The responsibility of the unit owner shall be as follows:

(1) To maintain, repair and replace at his expense all portions of his unit except the portions to be maintained, repaired and replaced by the Association.

(2) No Unit Owner shall paint or otherwise decorate or change the appearance of any portion of the exterior of the unit building.

(3) Each Unit Owner shall promptly report to the Association any defect or need for repairs for which the Association is responsible.

24.2 **Common Elements**.

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

(b) **Alteration and Improvement**. After the completion of the improvements included in the common elements contemplated by this Declaration, there shall be no alteration or further improvement of the real property constituting the common elements without prior approval by the owners of not less than two-thirds (2/3rds) of the common elements. Any such lateration or improvement shall not unreasonably interfere with the rights of any unit owners without their consent.

24.3 **Limited Common Elements**. Except as specifically provided for elsewhere, the maintenance of the limited common elements shall be the responsibility of the Association and a common expense.

25. **INSURANCE**. Insurance shall be carried and kept in force at all times in accordance with the following provisions:

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25.1 **Duty and Authority to Obtain**. The Association shall obtain and keep in force at all times the insurance coverage which it is required hereby to carry and may obtain and keep in force any or all of such other or additional insurance coverage as it is otherwise authorized to carry. All insurance obtained by the Association shall be purchased for the benefit of the Association, its officers, directors, and employees and the Unit owners and their mortgagees. The named insured shall be the Association, individually, and as agent for the unit owners without naming them and as agent for their mortgagees. Provision shall be made for the issuance of mortgagee endorsements or memorandum of insurance for such mortgagees. The owner(s) of each Unit may, at the expense of such owner(s), obtain insurance coverage against damage to and loss of the contents of the Unit, personal liability for injury to and death of persons and damage to and loss of personal property of others, and against additional living expenses, provided that all such insurance purchased by Unit owners shall be obtained from the insurer from which the Association purchases coverage against the same risk, liability or peril, if the Association has such coverage, if the same is required by the Association's insurer.

25.2 **Required Coverage**. The Association shall purchase and carry insurance coverage as follows:

(1) **Casualty Insurance**. Casualty insurance covering all of the buildings as that term is defined by the Florida Condominium Statutes, in an amount equal to the maximum insurance replacement value thereof, exclusive of excavation and foundation costs, as determined annually by the Board of Directors of the Association; such insurance to afford protection against:

(a) Loss or damage by fire or other hazards covered by the standard extended coverage or other perils endorsement.

(b) Such other risks of a similar or dissimilar nature as are or shall be customarily covered with respect to buildings similar in construction, location and use, to the buildings of the Condominium including without limitation vandalism, malicious mischief, windstorm, water damage and war risk insurance, if available.

(2) **Public Liability Insurance**. Public Liability insurance in such amounts, with such coverage and in such forms as shall be required by the Board of Directors of the Association to protect the Association and the owners of all Units, including without limitation, hired automobile, non-owned automobiles, off-premises

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employee coverage, water damage and legal liability, with crossliability endorsements to cover liability of all Unit owners as a group to each Unit Owner.

(3) **Workmen's Compensation Insurance**. Workmen's Compensation insurance to meet the requirements of law.

(4) **Flood Insurance**. Flood Insurance, if the same shall be necessary under the laws of the United States for federally related mortgage lenders to make mortgage loans on units.

25.3 **Optional Coverage**. The Association may purchase and carry such other insurance coverage, other than title insurance, as the Board of Directors of the Association, in its sole discretion, may determine from time to time to be in the best interests of the Association and unit owners, or as an institutional lender may reasonably require while it holds a mortgage encumbering any unit. Directors liability insurance may be obtained as an Association expense.

25.4 **Premiums**. Premiums for all insurance obtained and purchased by the Association shall be paid by the Association. The cost of insurance premiums, and other incidental expenses incurred by the Association in administering and carrying out the provisions of this Article, shall be assessed against and collected from the unit owners as common expenses.

25.5 **Assured**. All policies of insurance obtained and purchased by the Association shall be for the benefit of the Association, the owners of Units and their mortgagees, as their interests may appear, and shall provide that all proceeds covering casualty losses shall be paid to the "Insurance Trustee", as herein identified, or to its successor, and the proceeds from insurance against any casualty loss shall be held for the use of the Association, Unit Owners and their respective mortgagees, as their interests may appear, to be applied or distributed in the manner herein provided. The Association is hereby constituted and appointed agent for all Unit owners, with authority to negotiate and settle the value and extent of any and all losses covered under any policy of casualty insurance, and the Association is granted full right and authority to execute, in favor of any insurer, a release of liability arising out of any occurrence covered by any policy or policies of casualty insurance and resulting in loss of or damage to insured property, subject only to the restrictions contained in subparagraph 26.8 below.

25.6 **Insurer**. All persons beneficially interested in the insurance coverage obtained, purchased and maintained by the

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Association shall be bound by the Association's selection of its insurer(s) and the amount of insurance coverage carried and kept in force by the Association.

25.7 **Insurance Trustee; Shares of Proceeds.** All insurance policies purchased by the Association shall be for the benefit of the Association and the unit owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the WHISKEY POINTE OF BONITA BAY CONDOMINIUM ASSOCIATION, INC., as Trustee. The duty of the trustee shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes elsewhere stated in this instrument and for the benefit of the unit owners and their mortgagees, in the following shares, but which shares need not be set forth on the records of the trustee:

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

(b) **Units.** Proceeds on account of damage to units shall be held in the following undivided shares:

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

(2) When the building is not to be restored - an undivided share for each unit owner, such share being the same as the undivided share in the common elements appurtenant to his unit.

(c) **Mortgagees.** In the event a mortgagee endorsement has been issued as to an unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions of such proceeds made to the unit owner and mortgagee pursuant to the provisions of this Declaration.

25.8 **Distribution of Proceeds.** Proceeds of insurance policies received by the trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

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(a) **Expense of the Trust**. All expenses of the trustee shall be paid first or provisions made for such payment.

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

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

25.9 **Association as Agent**. The association is irrevocably appointed agent for each unit owner and for each owner of a mortgage or other lien upon an unit and for each owner of any other interest in the Condominium property to adjust all claims for property damage less than $10,000 arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims. The Association is likewise irrevocably appointed agent for each unit owner and for each owner of any other interest in the Condominium property to adjust all claims for property damage in excess of $25,000 arising under insurance policies purchased by the Association. However, for all such claims in excess of $25,000, the Association shall be authorized to execute and deliver releases and to settle claims for the unit owners and for the owners of any other interest in the Condominium property only when the Association has the consent of all approved mortgagees. This provision shall not be construed to confer upon the Association any authority with regard to any claims which an unit owner may have for personal injury.

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26. RECONSTRUCTION OR REPAIR AFTER CASUALTY.

26.1 Whether or not Condominium property damaged by casualty shall be reconstructed and repaired shall be determined in the following manner:

(a) **Common Element**. If the damaged improvement is any of the common elements, the damaged common element shall be

reconstructed or repaired, unless it is determined in the manner elsewhere provided that the condominium shall be terminated.

(b) **Apartment Building**.

(1) **Lesser Damage**. If the damaged improvements are to an unit building and if units to which 50% of the common elements are appurtenant are found by the Board of Directors of the Association to be tenantable after the casualty, the damaged property shall be reconstructed and repaired.

(2) **Major Damage**. If the damaged improvements are to an unit building and if units to which more than 50% of the common elements are appurtenant are found by the Board of Directors of the Association to be not tenantable, then the damaged property will not be reconstructed or repaired and the Condominium will be terminated without agreement as elsewhere provided, unless within 60 days after the casualty the owners of 2/3rds of the common elements agree in writing to such reconstruction or repair.

26.2 Plans and Specification. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, portions of which are attached as exhibits; or if not, then according to plans and specifications approved by the Board of Administration of the Association, and if the damaged property is the unit building, by the owners of not less than 2/3rds of the common elements, including the owners of all damaged units, which approval shall not be unreasonably withheld.

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

26.4 Estimates of Costs. Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

26.5 Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the

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funds for the payment of the cost of reconstruction and repair are insufficient, assessments shall be made by the Association against all unit owners in sufficient amounts to provide funds for the payment of those costs. The assessments shall be made as for a common expense, except that the cost of construction, reconstruction and repair occasioned by special improvement made at the request of the owner and not commom to other units shall be assessed to the owner of the unit.

27. **ALTERATIONS OF AND IMPROVEMENTS TO UNITS AND COMMON ELEMENTS.** Neither a unit owner nor the Association shall make any alterations, improvements or additions to Units or Common Elements, except in compliance with the following:

27.1 **Units.** Unless the Unit owner(s) shall first submit plans for such work to the Board, and the Board, by majority vote shall approve and consent thereto, no alteration of or improvement or addition to a Unit, or to any Limited Common Element to which the owner has an exclusive right of use, shall be made, constructed, erected or installed which shall: (1) remove, in whole or in part, replace, reroute, or otherwise affect any column, bearing wall or partition, pipe, duct, wire or conduit, or obstruct any easement herein provided for, or (2) remove, or change the style, pattern, material, texture or outside color of any door, window, screen, fixture or equipment in or on an exterior Unit or building wall, or (3) cover, from the inside or outside, the glass or other transparent and/or translucent material in any exterior door or window with, or apply or affix thereto, any material or substance which shall render the same opague or change the exterior color thereof, except interior draperies, curtains, shades or shutters which are lined, backed, covered or painted on the side visible from the exterior with a neutral color material, or (4) affix to or over any exterior door or window, or otherwise install on the exterior, of any Unit or building, any screens or glass, or any storm or hurricane shutter or awning or any protective or decorative panel, panelling, trim, enclosure, fixture, or appliance, or (5) otherwise change, modify or alter the exterior of any Unit or building so that it thereby differs in appearance from any other Unit or portion of the building.

27.2 **Common Elements.** After the completion of the improvements included in the common elements contemplated by this Declaration there shall be no material alteration or further improvement of the real property constituting the common elements without prior approval in writing by the owners of not less than two-thirds (2/3rds) of the common elements except as provided by the Bylaws.

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Any such alteration or improvement shall not unreasonably interfere with the rights of any unit owners without their consent. The cost of such work shall not be assessed against a bank, life insurance company or savings and loan association that acquires its title as the result of owning a mortgage upon the unit owned, unless such owner shall approve the alteration or improvement, and this shall be so whether the title is acquired by deed from the mortgagor or through foreclosure proceedings. The share of any cost not so assessed shall be assessed to the other unit owners in the shares that their shares in the common elements bear to each other. There shall be no change in the shares and rights of an unit owner in the common elements altered or further improved, whether or not the unit owner contributes to the cost of such alteration or improvements.

27.3 **Storm Shutters**. Notwithstanding any provision set forth hereinabove to the contrary, the Board of Directors of the Association may adopt and approve a model, style and color of storm shutter as a standard storm shutter for use in the Condominium. Such storm shutter shall be of the type and design which is affixed directly over a door or window opening. No storm shutter except of the standard model, color and style adopted by the Board of Directors shall be used in or upon the Condominium. The periods of use of storm shutters shall be subject to regulation by the Board of Directors of the Condominium.

28. **RIGHTS OF DEVELOPERS**.

28.1 **General Rights**. So long as Developer, or any successor developer or mortgagee succeeding Developer in title, shall own any unit, it shall have the absolute right to sell any such unit to any person, firm or corporation, upon any terms and conditions as it shall deem to be in its own best interests, and as to the sale of such unit, the right of first refusal, prior approval, or any right of redemption herein granted to the Association shall not be operative or effective in any manner. The Developer reserves the right, until all units presently held by it are sold, to execute, on behalf of the Association, Certificates of Approval approving persons for membership in the Association, provided due care and diligence is exercised in granting such approvals.

28.2 **Amendment of Plans**. The Developer has the right to amend the plans under the circumstances set forth on page 11, Paragraph 15 of this Declaration.

28.3 **Business**. So long as the Developer owns any Units in the Condominium, the Developer may transact any business on the

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Condominium Property necessary or convenient to consummate sales of Units, including, but not limited to, maintaining an office and models, displaying signs, hiring employees, using the Common Elements for parking for prospective Purchasers, and showing the Units. All office and sales equipment belonging to the Developer shall remain the property of the Developer and may be removed by Developer at any time.

28.4 **Easements**. As long as the Developer has control of the Association, and provided it has the prior consent of the developer's Mortgagees, the Developer shall have the right to grant such easements over the Condominium Property to such beneficiaries and for such time as it determines in its sole discretion to be of benefit to the Condominium or to the Developer, and thereafter the Association shall be empowered to grant such easements on behalf of its members. During the period of time the Developer has the right to grant the foregoing easements, the consent and approval of the Association and its members shall not be required. The foregoing easements may be granted only if they do not structuraly weaken the improvements upon the Condominium Property or unreasonably interfere with the enjoyment of the Condominium Property by the Unit Owners.

29. **AMENDMENTS**. Except as elsewhere provided otherwise, this Declaration of Condominium and the Bylaws of WHISKEY POINTE OF BONITA BAY CONDOMINIUM ASSOCIATION, INC., may be amended in the following manner:

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

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

(a) Not less than a majority of the Board of Administration, and by not less than a majority of the voting interests of the entire membership of the Association; or

(b) Until the first election of non-developer related directors, only by all of the directors, provided the amendment does

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not increase the number of units nor alter the boundaries of the common elements.

29.3 **Developer Amendment**. Notwithstanding anything to the contrary herein, as long as developer owns units for sale in the ordinary course of business, the Developer reserves the right to amend the Declaration, and any Exhibits hereto, for any one or more of the following purposes:

(a) To correct any errors or omissions not affecting the rights of Unit Owners, lienors or Mortgagees.

(b) For the purpose of adding land for any additional phases permitted under this Declaration or under Section 718.403(6) or other sections of the Florida Statutes.

(c) For purpose of adding a Certificate of Surveyor as provided for in Section 718.104(4)(e) or other sections of the Florida Statutes.

(d) To make reasonable changes that do not materially or adversely affect the interest of Mortgagees, nor the Unit Owners, nor the Unit Owners share of the common elements.

Above amendments need be executed and acknowledged only by the Developer and need not be approved by the Association, Unit Owners, lienors or Mortgagees, whether or not elsewhere required for amendments.

29.4 **Proviso**. Provided no amendment may change the configuration or size of any condominium unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus unless the record owner of the unit and all record owners of liens on it join in the execution of the amendment and unless all the record owners of all other units approve the amendment. Neither shall an amendment make any change in the section entitled "insurance" nor in the section entitled "Reconstruction or Repair after Casualty" unless the record owners of all mortgages upon the condominium shall join in the execution of the amendment.

29.5 **Enlargement of Common Elements**. The common elements designated by the Declaration may be enlarged by an amendment to the Declaration. The amendment must describe the interest in the property and must submit the property to the terms of the

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Declaration. The amendment must be approved and executed as provided in this section. The amendment divests the association of title to the land and vests title in the unit owners as part of the common elements, without naming them and without further conveyance, in the same proportion as the undivided shares in the common elements that are appurtenant to the unit owned by them.

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

30. **TERMINATION**. The Condominium may be terminated in the following manner in addition to the manner provided by the Condominium Act:

30.1 **Destruction**. In the event it is determined in the manner elsewhere herein provided that the improvements shall not be reconstructed because of total destruction or major damage, the Condominium plan of ownership will be thereby terminated without agreement.

30.2 **Agreement**. The Condominium may be terminated at any time by the approval in writing of all of the owners of Units in the Condominium, and by all mortgagees who have recorded their mortgages. If not all unit owners agree in writing then a proposed termination may be submitted to a meeting of the members of the Association, the notice of which meeting gives thirty (30) days notice of the proposed termination. If the termination is approved by not less than 75 percent of the Unit Owners and written aproval from the record owners of all mortgages upon Units in the Condominium, are obtained not later than thirty (30) days from the date of such meeting, then the approving owners shall have an option to buy all of the Units of the other owners for a period ending on the sixtieth (60th) day from the date of such meeting. Such option shall be upon the following terms:

(1) **Exercise of Option**. The option shall be exercised by delivery or mailing by certified mail to each of the record owners of the units to be purchased of an agreement to purchase signed by the record owners of Units who will participate in the purchase. Such agreement shall indicate which Units will be purchased by each participating owner and shall agree to purchase all of the Units owned by owners not approving the termination, but the agreement

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shall effect a separate contract between each seller and his purchaser.

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

(3) **Payment**. The purchase price shall be paid in cash.

(4) **Closing**. The sale shall be closed within ten (10) days following the determination of the sale price.

30.3 **Certificate**. The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its President and Secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the Public Records of Lee County, Florida.

30.4 **Shares of Owners After Termination**. After termination of the Condominium, the Unit owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Unit owners. Such undivided shares of the Unit owners shall be the same as the undivided shares in the Common Elements appurtenant to the owners' Units prior to the termination.

30.5 **Amendment**. This section concerning termination shall not be amended without consent of all Unit owners and of all owners of mortgages required to approve termination by agreement.

31. **MISCELLANEOUS**.

31.1 **Severability**. The invalidity in whole or in part of any covenant or restriction, or any article, subarticle, sentence, clause, phrase or word, or other provision of this Declaration of

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Condominium and the Articles of Incorporation, Bylaws and regulations of the Association shall not affect the validity of the remaining portions thereof.

31.2 **Invalidation of Part**. Invalidation of any part of this Declaration, any provision contained in any plat of the Condominium Property or in a conveyance of a Unit in the Condominium by judgment, court order or law shall not affect any of the other provisions hereof which shall remain in full force and effect.

31.3 **Applicability of Declaration of Condominium**. All present or future owners, tenants, or any other person who might use the facilities of the Condominium in any manner, are subject to the provisions of this Declaration, and the mere acquisition or rental of any unit, or the mere act of occupancy of any unit, shall signify that the provisions of this Declaration of Condominium are accepted and ratified in all respects.

31.4 **Construction**. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of Condominium ownership. The Florida Condominium Act, as the same exists on the date hereof, is hereby adopted and made a part hereof. In the event of any conflict between the provisions of this Declaration and the Condominium Act, the provisions of the Condominium Act shall prevail.

31.5 **Singular, Plural And Gender**. Whenever the context so permits, the use of the plural shall include the singular, the singular the plural, and the use of any gender shall be deemed to include all genders.

31.6 **Parties Bound**. The restrictions and burdens imposed by this Declaration of Condominium are intended to and shall constitute covenants running with the land, and shall be binding upon Developer, its successors and assigns, and upon all parties who may subsequently become owners of Units in the Condominium, and their respective heirs, legal representatives, successors and assigns.

31.7 **Remedies for Violation**. Each Unit Owner shall be governed by and conform to this Declaration, the Articles of Incorporation, the Bylaws, the Master Declaration, the Master Articles of Incorporation and the Master Bylaws. Failure to do so shall entitle the Association, Master Association or any other Unit Owner to recover damages or obtain injunctive relief or both, but such relief shall not be exclusive of other remedies provided by law.

OR2054 PG2781

31.8 Execution of Documents Required by Government. The Developer's plan for the development of this Condominium may require from time to time the execution of certain documents required by Lee County or the South Florida Water Management District or other government agencies having jurisdiction. To the extent that said documents require the joinder of Unit Owners, the Developer by its duly authorized officers may, as the agent or the attorney-infact for the Unit Owners, execute, acknowledge and deliver such documents and the Unit Owners, by virtue of their acceptance of Deeds to their Units, irrevocably nominate, constitute and appoint the Developer, through its duly authorized officers, as their proper and legal attorneys-in-fact for such purpose. Said appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Article shall recite that it is made pursuant to this Article.

IN WITNESS WHEREOF, Developer has caused the foregoing Declaration of Condominium to be executed, by its undersigned, duly authorized officer on the date set forth above.

WITNESSES:

LUNDSTROM-McDONALD DEVELOPMENT, INC., A Florida Corporation

By: _____
BOB L. LUNDSTROM, President

STATE OF FLORIDA
COUNTY OF COLLIER

BEFORE ME, the undersigned authority, personally appeared BOB L. LUNDSTROM, to me known to be the President of LUNDSTROM-McDONALD DEVELOPMENT, INC., a Florida corporation, and who acknowledged before me that he did, as such officer, execute the foregoing Declaration of Condominium as the act and deed of said

OR2054 PG2782

corporation and that the same was executed for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this 6th day of March, 19 87.

Mary Sue Bragg
Notary Public
My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. JULY 1,1989
BONDED THRU GENERAL INS. UND.

OR2054 PG2783

CONSENT BY MORTGAGEE

IN DECLARATION OF CONDOMINIUM

SUN BANK/NAPLES, N.A., whose principal place of business is 801 Laurel Oak Boulevard, Naples, Florida, as the holder of a Note and Mortgage encumbering the land and improvements dedicated to the condominium form of ownership by the Declaration of Condominium for WHISKEY POINTE, A Condominium, hereby consents to said Declaration of Condominium and grants its consent to the recording of this Declaration of Condominium and related documents in the Public Records of Collier County, Florida.

SUN BANK/NAPLES, N.A., by the execution of this consent does not become a developer of the herein referrenced project for purposes of representations or warranties or other developer obligations in the event the lender is required to foreclose its mortgage.

OR2054

SUN BANK/NAPLES, N.A.

Witnesses:

Barbara A. Walker

By: _____

PG2784

STATE OF FLORIDA

COUNTY OF COLLIER

BEFORE ME, the undersigned authority, personally appeared DAVID A. [illegible] to me known to be the Service Pres. of SUN BANK/NAPLES, N.A., and who acknowledged before me that he did, as such officer, execute the foregoing document as the act and deed of said corporation and that the same was executed for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this 15th day of March, 1987.

Barbara A. Walker
Notary Public
My Commission Expires:

Notary Public, State of Florida at Large
My Commission Expires Nov. 14, 1992

WILSON • MILLER • BARTON • SOLL & PEEK, INC.
ENGINEERS PLANNERS SURVEYORS
1383 AIRPORT-PULLING ROAD NORTH, NAPLES, FLORIDA 33942-9986 (813) 643-4545

Description of Phase 1 of Whiskey Pointe, A Condominium,
being a part of Tract A of BONITA BAY UNIT TWO
(P.B. 38, pages 86-88) Lee County, Florida

Commencing at the northwest corner of Tract "A" of "BONITA BAY UNIT TWO" according to the plat thereof as recorded in Plat Book 38, pages 86 through 88, Public Records of Lee County, Florida;
thence along the boundary of said Tract "A" in the following five (5) described courses;

1) northeasterly 35.14 feet along the arc of a circular curve concave to the northwest, having a radius of 60.00 feet, through a central angle of 33°-33'-28" and being subtended by a chord which bears North 60°-57'-40" East 34.64 feet to a point of reverse curvature;
2) northeasterly and easterly 89.57 feet along the arc of a tangential circular curve concave to the southeast, having a radius of 100.00 feet, through a central angle of 51°-19'-04" and being subtended by a chord which bears North 69°-50'-28" East 86.60 feet;
3) South 84°-30'-00" East 285.10 feet;
4) easterly and southeasterly 133.92 feet along the arc of a tangential circular curve concave to the southwest, having a radius of 95.32 feet, through a central angle of 80°-30'-00" and being subtended by a chord which bears South 44°-15'-00" East 123.18 feet to a point of reverse curvature;
5) southerly 28.97 feet along the arc of a tangential circular curve concave to the east, having a radius of 516.13 feet, through a central angle of 3°-12'-58" and being subtended by a chord which bears South 5°-36'-29" East 28.97 feet to a point on said curve and the POINT OF BEGINNING of the parcel herein described;

thence continue along said curve and said boundary of Tract "A", southeasterly 152.38 feet along the arc of said curve concave to the northeast, through a central angle of 16°-54'-57" and being subtended by a chord which bears South 15°-40'-27" East 151.83 feet to a point on said curve;
thence leaving said curve and said boundary of Tract "A", South 65°-00'-00" West 39.30 feet;
thence South 25°-00'-00" East 52.61 feet;
thence South 65°-00'-00" West 102.28 feet;
thence North 90°-00'-00" West 151.15 feet;
thence North 3°-30'-00" West 171.43 feet;
thence North 79°-00'-00" East 100.69 feet;
thence North 29°-00'-00" East 49.36 feet;
thence North 79°-00'-00" East 105.85 feet to a point on said boundary of Tract "A" and the Point of Beginning of the parcel herein described;

(continued on page 2)

OR2084

PG2785

EXHIBIT DC-1
Page 1 of 1

RAYMOND W. MILLER, P.E. • WILLIAM L. BARTON, P.E. • THOMAS R. PEEK, P.E., P.L.S. • WILBUR M. CHRISTIANSEN, P.L.S. • BLAKFORD H. SCHNEIDER, P.E.
BENJAMIN C. PRATT, P.E., P.L.S. • CARL H. SOLL, P.L.S. • FERMIN A. DIAZ, P.E. • JOHN E. BOUTWELL, P.L.S. • GARY L. DANGA, C.P.A. • ALAN B. REYNOLDS, A.I.C.P.
Fort Myers, Florida (813) 337-4611

WILSON • MILLER • BARTON • SOLL & PEEK, INC.

Description of Phase 1 of Whiskey Pointe, A Condominium,
being a part of Tract A of BONITA BAY UNIT TWO
(P.B. 38, pages 86-88) Lee County, Florida
(continued from page 1)

being a part of Tract "A" of "BONITA BAY UNIT TWO" (P.B. 38, pages 86 - 88) Lee County, Florida;
subject to easements and restrictions of record;
containing 1.15 acres more or less.

WILSON, MILLER, BARTON, SOLL & PEEK, INC.
Reg. Engineers and Land Surveyors

BY _____ DATE 4/20/88
Wilbur M. Christiansen, Jr., P.L.S. #2765

Not valid unless embossed with the Professional's seal.

W.O. 5668.2
Ref: 4K-151 (GGG:kjd phase 1 whiskey pointe)
Date: April 18, 1988

OR2054

PG2786

WILSON • MILLER • BARTON • SOLL & PEEK, INC.
ENGINEERS PLANNERS SURVEYORS
1383 AIRPORT-PULLING ROAD NORTH, NAPLES, FLORIDA 33942-9986 (813) 643-4545

Description of Phase II (Parcel "A") of Whiskey Pointe, A Condominium, being a part of Tract A of BONITA BAY UNIT TWO P.B. 38, pages 86-88) Lee County, Florida

Commencing at the northwest corner of Tract "A" of "BONITA BAY UNIT TWO" according to the plat thereof as recorded in Plat Book 38, pages 86 through 88, Public Records of Lee County, Florida;
thence along the boundary of said Tract "A" in the following six (6) described courses;

1) northeasterly 35.14 feet along the arc of a circular curve concave to the northwest, having a radius of 60.00 feet, through a central angle of 33°-33'-28" and being subtended by a chord which bears North 60°-57'-40" East 34.64 feet to a point of reverse curvature;
2) northeasterly and easterly 89.57 feet along the arc of a tangential circular curve concave to the southeast, having a radius of 100.00 feet, through a central angle of 51°-19'-04" and being subtended by a chord which bears North 69°-50'-28" East 86.60 feet;
3) South 84°-30'-00" East 285.10 feet;
4) easterly and southeasterly 133.92 feet along the arc of a tangential circular curve concave to the southwest, having a radius of 95.32 feet, through a central angle of 80°-30'-00" and being subtended by a chord which bears South 44°-15'-00" East 123.18 feet to a point of reverse curvature;
5) southerly 28.97 feet along the arc of a tangential circular curve concave to the east, having a radius of 516.13 feet, through a central angle of 3°-12'-58" and being subtended by a chord which bears South 5°-36'-29" East 28.97 feet to a point on said curve;
6) continuing along said curve southeasterly 152.38 feet along the arc of, said curve through a central angle of 16°-54'-57" and being subtended by a chord which bears South 15°-40'-27" East 151.83 feet to a point on said curve and the POINT OF BEGINNING of the parcel herein described;

   thence continue along said boundary of Tract "A" in the following four (4) described courses;

   1) continuing along said curve, southeasterly 48.36 feet along the arc of, said curve, through a central angle of 5°-22'-05" and being subtended by a chord which bears South 26°-48'-57" East 48.34 feet;
   2) South 29°-30'-00" East 104.00 feet;
   3) southeasterly, southerly and southwesterly 89.31 feet along the arc of a tangential circular curve concave to the northwest, having a radius of 50.00 feet, through a central angle of 102°-20'-19" and being subtended by a chord which bears South 21°-40'-10" West 77.90 feet to a point of reverse curvature;
   4) southwesterly 165.06 feet along the arc of a tangential circular curve concave to the southeast, having a radius of 1070.00 feet, through a central angle of 8°-50'-19" and being subtended by a chord which bears South 68°-25'-10" West 164.90 feet to a point on said curve;

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(continued on page 2)

EXHIBIT DC-2-A
Page 1 of 2

RAYMOND W. MILLER, P.E. • WILLIAM L. BARTON, P.E. • THOMAS R. PEEK, P.E., P.L.S. • WILBUR M. CHRISTIANSEN, P.L.S. • CLIFFORD H. SCHNEIDER, P.E.
BENJAMIN C. PRATT, P.E., P.L.S. • CARL H. SOLL, P.L.S. • FERMIN A. DIAZ, P.E. • JOHN E. BOUTWELL, P.L.S. • GARY L. GANGA, B.R.A. • ALAN B. REYNOLDS, A.I.C.P.
Fort Myers, Florida (813) 337-4611

WILSON • MILLER • BARTON • SOLL & PEEK, INC.

Description of Phase II (Parcel "A") of Whiskey Pointe, A Condominium,
being a part of Tract A of BONITA BAY UNIT TWO
P.B. 38, pages 86-88) Lee County, Florida
(continued from page 1)

thence leaving said curve and said boundary of Tract "A", North 1°-04'-57" East 159.21 feet;
thence North 65°-00'-00" East 102.28 feet;
thence North 25°-00'-00" West 52.61 feet;
thence North 65°-00'-00" East 39.30 feet to a point on said boundary of Tract "A" and the Point of Beginning of the parcel herein described;
being a part of Tract "A" of "BONITA BAY UNIT TWO" (P.B. 38, pages 86 -88) Lee County, Florida;
subject to easements and restrictions of record;
containing 0.66 acres more or less.

WILSON, MILLER, BARTON, SOLL & PEEK, INC.
Reg. Engineers and Land Surveyors

BY _____ DATE 4/20/88
Wilbur M. Christiansen, Jr., P.L.S. #2765

Not valid unless embossed with the Professional's seal.

W.O. 5668
Ref: 4K-151 (GGG:kjd parcel A whiskey creek ph2)
Date: April 18, 1988

OR2054 PG2788

EXHIBIT DC-2-B

WILSON • MILLER • BARTON • SOLL & PEEK, INC.
ENGINEERS PLANNERS SURVEYORS
1383 AIRPORT-PULLING ROAD NORTH, NAPLES, FLORIDA 33942-9986 (813) 643-4545

Description of Phase II (Parcel "B") of Whiskey Pointe, A Condominium,
being a part of Tract A of BONITA BAY UNIT TWO
P.B. 38, pages 86-88) Lee County, Florida

Commencing at the northwest corner of Tract "A" of "BONITA BAY UNIT TWO" according to the plat thereof as recorded in Plat Book 38, pages 86 through 88, Public Records of Lee County, Florida;
thence along the boundary of said Tract "A" in the following five (5) described courses;

1) northeasterly 35.14 feet along the arc of a circular curve concave to the northwest, having a radius of 60.00 feet, through a central angle of 33°-33'-28" and being subtended by a chord which bears North 60°-57'-40" East 34.64 feet to a point of reverse curvature;
2) northeasterly and easterly 89.57 feet along the arc of a tangential circular curve concave to the southeast, having a radius of 100.00 feet, through a central angle of 51°-19'-04" and being subtended by a chord which bears North 69°-50'-28" East 86.60 feet;
3) South 84°-30'-00" East 285.10 feet;
4) easterly and southeasterly 133.92 feet along the arc of a tangential circular curve concave to the southwest, having a radius of 95.32 feet, through a central angle of 80°-30'-00" and being subtended by a chord which bears South 44°-15'-00" East 123.18 feet to a point of reverse curvature;
5) southerly 28.97 feet along the arc of a tangential circular curve concave to the east, having a radius of 516.13 feet, through a central angle of 3°-12'-58" and being subtended by a chord which bears South 5°-36'-29" East 28.97 feet to a point on said curve;

thence leaving said curve and said boundary of Tract "A", South 79°-00'-00" West 17.23 feet to the POINT OF BEGINNING of the parcel herein described;
thence continue South 79°-00'-00" West 88.62 feet;
thence North 11°-00'-00" West 16.78 feet;
thence North 61°-00'-00" West 23.92 feet;
thence North 29°-00'-00" East 44.11 feet;
thence South 61°-00'-00" East 102.59 feet to the Point of Beginning of the parcel herein described;
being a part of Tract "A" of "BONITA BAY UNIT TWO" (P.B. 38, pages 86 - 88) Lee County, Florida;
subject to easements and restrictions of record;
containing 0.08 acres more or less.

WILSON, MILLER, BARTON, SOLL & PEEK, INC.
Reg. Engineers and Land Surveyors

BY _____ DATE 4/20/88
Wilbur M. Christiansen, Jr., P.L.S. #2765

Not valid unless embossed with the Professional's seal.

V.O. 5668 Ref: 4K-151 (GGG:kjd parcel b whiskey creek ph2)
Date: April 18, 1988

OR2084 PG2789

RAYMOND W. MILLER, P.E. • WILLIAM L. BARTON, P.E. • THOMAS R. PEEK, P.E., P.L.S. • WILBUR M. CHRISTIANSEN, P.L.S. • CLIFFORD H. SWANSON, P.E.
BENJAMIN C. PRATT, P.E., P.L.S. • CARL H. SOLL, P.L.S. • FERMIN A. DIAZ, P.E. • JOHN E. BOUTWELL, P.L.S. • GARY L. DANDA, C.P.A. • ALAN D. REYNOLDS, A.I.C.P.
Fort Myers, Florida (813) 337-4811

WILSON • MILLER • BARTON • SOLL & PEEK, INC.
ENGINEERS PLANNERS SURVEYORS
1383 AIRPORT-PULLING ROAD NORTH, NAPLES, FLORIDA 33942-9988 (813) 643-4545

Description of Phase III of Whiskey Pointe, A Condominium,
being a part of Tract A of BONITA BAY UNIT TWO
P.B. 38, pages 86-88) Lee County, Florida

OR2054

Commencing at the northwest corner of Tract "A" of "BONITA BAY UNIT TWO" according to the plat thereof as recorded in Plat Book 38, pages 86 through 88, Public Records of Lee County, Florida;
thence along the boundary of said Tract "A" in the following three (3) described courses;

1) northeasterly 35.14 feet along the arc of a circular curve concave to the northwest, having a radius of 60.00 feet, through a central angle of 33°-33'-28" and being subtended by a chord which bears North 60°-57'-40" East 34.64 feet to a point of reverse curvature;
2) northeasterly and easterly 89.57 feet along the arc of a tangential circular curve concave to the southeast, having a radius of 100.00 feet, through a central angle of 51°-19'-04" and being subtended by a chord which bears North 69°-50'-28" East 86.60 feet;
3) South 84°-30'-00" East 195.56 feet to the POINT OF BEGINNING of the parcel herein described;

thence continue along said boundary of Tract "A" in the following three (3) described courses;

1) continuing South 84°-30'-00" East 89.54 feet;
2) easterly and southeasterly 133.92 feet along the arc of a tangential circular curve concave to the southwest, having a radius of 95.32 feet, through a central angle of 80°-30'-00" and being subtended by a chord which bears south 44°-15'-00" East 123.18 feet to a point of reverse curvature;
3) southerly 28.97 feet along the arc of a tangential circular curve concave to the east, having a radius of 516.13 feet through a central angle of 3°-12'-58" and being subtended by a chord which bears South 5°-36'-29" East 28.97 feet to a point on said curve;

thence leaving said curve and said boundary of Tract "A", South 79°-00'-00" West 17.23 feet;
thence North 61°-00'-00" West 102.59 feet;
thence South 29°-00'-00" West 44.11 feet;
thence South 61°-00'-00" East 23.92 feet;
thence South 11°-00'-00" East 16.78 feet;
thence South 29°-00'-00" West 49.36 feet;
thence South 79°-00'-00" West 100.69 feet;
thence North 8°-30'-00" West 95.76 feet;
thence North 29°-00'-00" East 129.79 feet to a point on said boundary of Tract "A" and the Point of Beginning of the parcel herein described;

PG2790

(continued on page 2)

EXHIBIT DC-3
Page 1 of 2

RAYMOND W. MILLER, P.E. • WILLIAM L. BARTON, P.E. • THOMAS H. PEEK, P.E., P.L.S. • WILBUR M. CHRISTIANSEN, P.L.S. • CLIFFORD H. SCHNEIDER, P.E.
BENJAMIN G. PRATT, P.E., P.L.S. • CARL H. SOLL, P.L.S. • FERMIN A. DIAZ, P.E. • JOHN E. BOUTWELL, P.L.S. • GARY L. DANCA, C.P.A. • ALAN D. REYNOLDS, A.I.C.P.
Fort Myers, Florida (813) 337-4611

WILSON • MILLER • BARTON • SOLL & PEEK, INC.

Description of Phase III of Whiskey Pointe, A Condominium,
being a part of Tract A of BONITA BAY UNIT TWO
P.B. 38, pages 86-88) Lee County, Florida
(continued from page 2)

being a part of Tract "A" of "BONITA BAY UNIT TWO" (P.B. 38, pages 86 - 88) Lee County, Florida;
subject to easements and restrictions of record;
containing 0.67 acres more or less.

WILSON, MILLER, BARTON, SOLL & PEEK, INC.
Reg. Engineers and Land Surveyors

BY _____ DATE 4/20/88
Wilbur M. Christiansen, Jr., P.L.S. #2765

Not valid unless embossed with the Professional's seal.

W.O. 5668
Ref: 4K-151 (GGG:kjd phase III whiskey pointe)
Date: April 18, 1988

OR2054 PG2791

WILSON • MILLER • BARTON • SOLL & PEEK, INC.
ENGINEERS PLANNERS SURVEYORS
1383 AIRPORT-PULLING ROAD NORTH, NAPLES, FLORIDA 33942-9988 (813) 643-4545

Description of Phase IV of Whiskey Pointe, A Condominium,
being a part of Tract A of BONITA BAY UNIT TWO
P.B. 38, pages 86-88) Lee County, Florida

Commencing at the northwest corner of Tract "A" of "BONITA BAY UNIT TWO" according to the plat thereof as recorded in Plat Book 38, pages 86 through 88, Public Records of Lee County, Florida;
thence along the boundary of said Tract "A", northeasterly 35.14 feet along the arc of a circular curve concave to the northwest, having a radius of 60.00 feet, through a central angle of 33°-33'-28" and being subtended by a chord which bears by a chord which bears North 60°-57'-40" East 34.64 feet to a point of reverse curvature and the POINT OF BEGINNING of the parcel herein described;
thence continue along said boundary of Tract "A" in the following two (2) described courses;
1) northeasterly and easterly 89.57 feet along the arc of a tangential circular curve concave to the southeast, having a radius of 100.00 feet, through a central angle of 51°-19'-04" and being subtended by a chord which bears North 69°-50'-28" East 86.60 feet;
2) South 84°-30'-00" East 195.56 feet;
thence leaving said boundary of Tract "A", South 29°-00'-00" West 129.79 feet;
thence South 8°-30'-00" East 95.76 feet;
thence South 79°-00'-00" West 139.91 feet;
thence North 48°-00'-00" West 62.60 feet;
thence North 10°-30'-00" West 66.77 feet;
thence North 15°-00'-00" West 120.39 feet to a point on said boundary of Tract "A" and the Point of Beginning of the parcel herein described;
being a part of Tract "A" of "BONITA BAY UNIT TWO" (P.B. 38, pages 86 - 88) Lee County, Florida;
subject to easements and restrictions of record;
containing 1.11 acres more or less.

WILSON, MILLER, BARTON, SOLL & PEEK, INC.
Reg. Engineers and Land Surveyors

BY [signature] DATE 4/22/88
Wilbur N. Christiansen, Jr. P.L.S. #2765

Not valid unless embossed with the Professional's seal.

W.O. 5668
Ref: 4K-151 (GGG:kjd phase IV whiskey creek)
Date: April 18, 1988

OR2054 PG2792

EXHIBIT DC-4

RAYMOND W. MILLER, P.E. • WILLIAM L. BARTON, P.E. • THOMAS R. PEEK, P.E., P.L.S. • WILBUR N. CHRISTIANSEN, P.L.S. • CLIFFORD M. SCHNEIDER, P.E.
BENJAMIN C. PRATT, P.E., P.L.S. • CARL H. SOLL, P.L.S. • HERMIN A. DIAZ, P.E. • JOHN E. SOUTWELL, P.L.S. • GARY L. RANZA, P.E.A. • ALAN B. REYNOLDS, A.I.C.P.
Fort Myers, Florida (813) 337-4611

WILSON • MILLER • BARTON • SOLL & PEEK, INC.
ENGINEERS PLANNERS SURVEYORS
1383 AIRPORT-PULLING ROAD NORTH, NAPLES, FLORIDA 33942-9986 (813) 643-4545

Description of Phase V of Whiskey Pointe, A Condominium,
being a part of Tract A of BONITA BAY UNIT TWO
P.B. 38, pages 86-88) Lee County, Florida

Beginning at the northwest corner of Tract "A" of "BONITA BAY UNIT TWO" according to the plat thereof as recorded in Plat Book 38, pages 86 through 88, Public Records of Lee County, Florida;
thence along the boundary of said Tract "A", northeasterly 35.14 feet along the arc of a circular curve concave to the northwest, having a radius of 60.00 feet, through a central angle of 33°-33'-28" and being subtended by a chord which bears North 60°-57'-40" East 34.64 feet to a point on said curve;
thence leaving said curve and said boundary of Tract "A", South 15°-00'-00" East 120.39 feet;
thence South 10°-30'-00" East 66.77 feet;
thence South 48°-00'-00" East 62.60 feet;
thence North 79°-00'-00" East 41.76 feet;
thence South 3°-30'-00" East 178.42 feet;
thence North 75°-00'-00" East 99.31 feet;
thence North 90°-00'-00" East 151.15 feet;
thence South 1°-04'-57" West 159.21 feet to a point on said boundary of Tract "A";
thence along said boundary of Tract "A" in the following three (3) described courses;
1) South 64°-00'-00" West 563.00 feet;
2) North 2°-30'-00" East 475.00 feet;
3) North 13°-45'-00" East 291.21 feet to said northwest corner of Tract "A" and the Point of Beginning of the parcel herein described;
being a part of Tract "A" of "BONITA BAY UNIT TWO" (P.B. 38, pages 86 - 88) Lee County, Florida;
subject to easements and restrictions of record;
containing 4.38 acres more or less.

WILSON, MILLER, BARTON, SOLL & PEEK, INC.
Reg. Engineers and Land Surveyors

BY _____ DATE 4/20/88
Wilbur M. Christiansen, Jr., P.L.S. #2765

Not valid unless embossed with the Professional's seal.

W.O. 5668
Ref: 4K-151 (GGG:kjd phase V whiskey creek)
Date: April 18, 1988

OR2054 PG2793

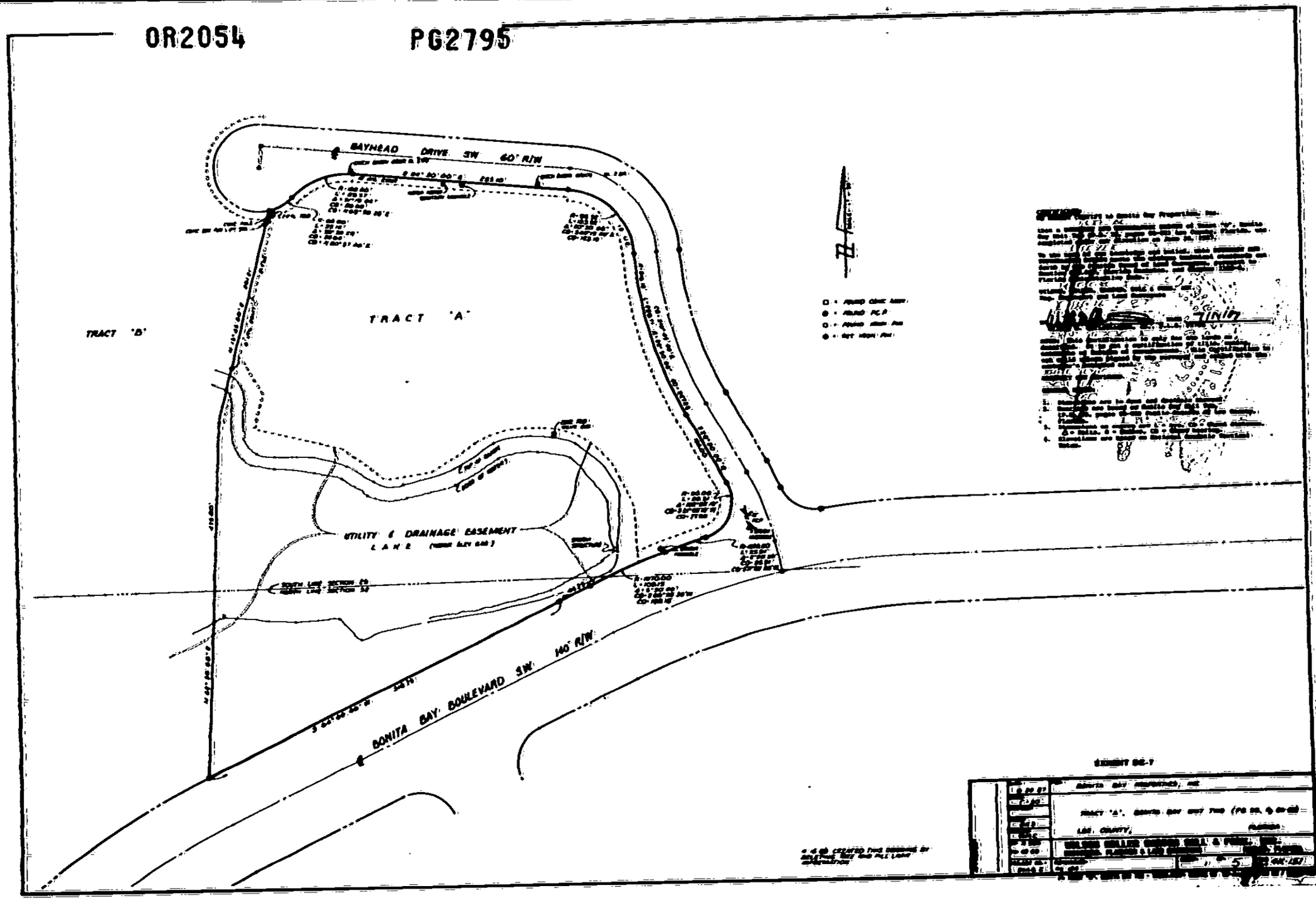
EXHIBIT DC-5

LEGAL DESCRIPTION OF ENTIRE PARCEL

All of Tract A, Bonita Bay Unit Two, according to the plat thereof recorded in Plat Book 38, pages 86, 87 and 88, Public Records of Lee County, Florida.

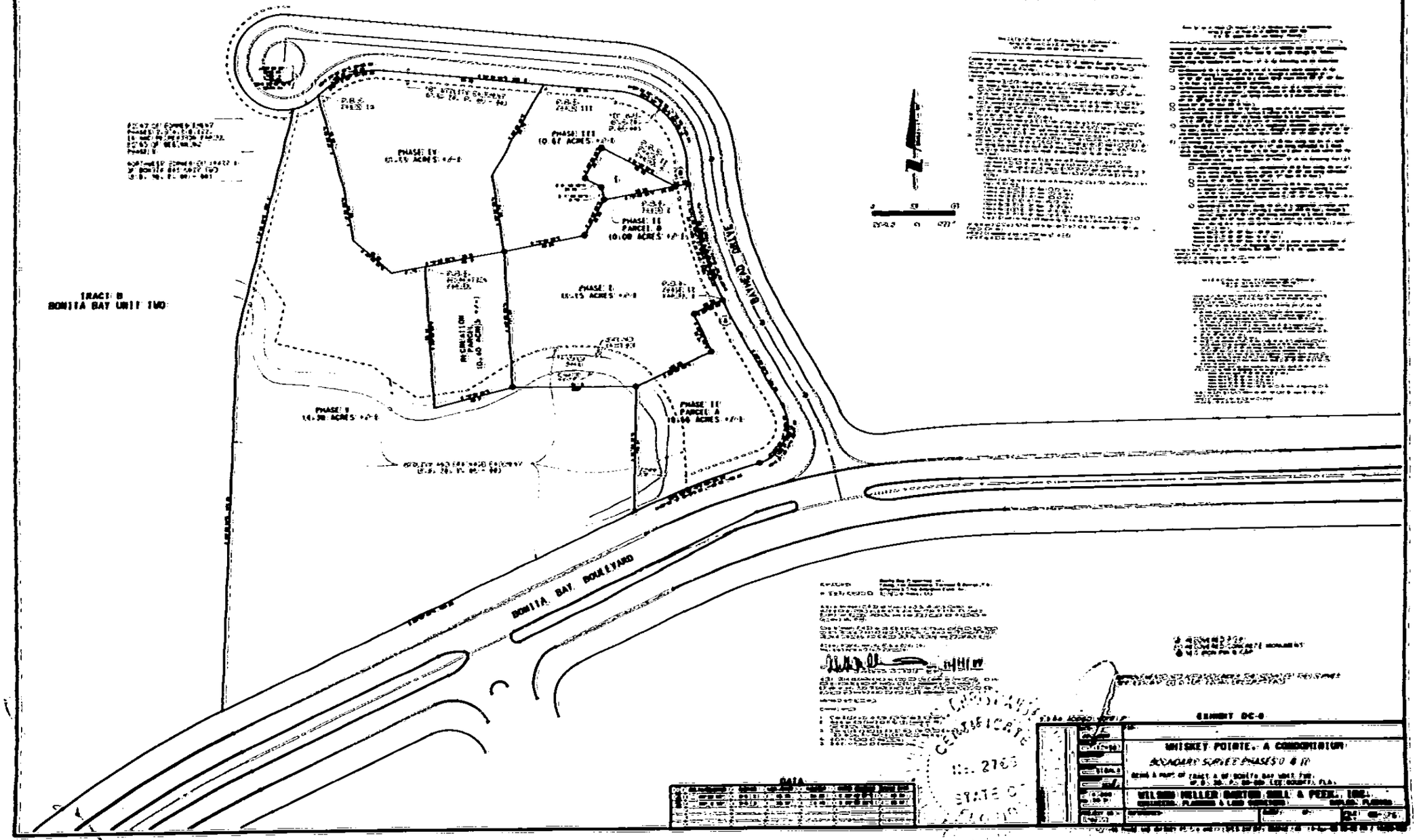
OR2054 PG2794

EXHIBIT DC-6


BAYHEAD DRIVE SW 60' R/W
TRACT 'A'
TRACT 'B'
UTILITY & DRAINAGE EASEMENT
LAKE
BONITA BAY BOULEVARD SW 140' R/W

BOUNDARY SURVEY PHASES I & II

WHISKEY POINTE, A CONDOMINIUM



WHISKEY POINTE, A CONDOMINIUM

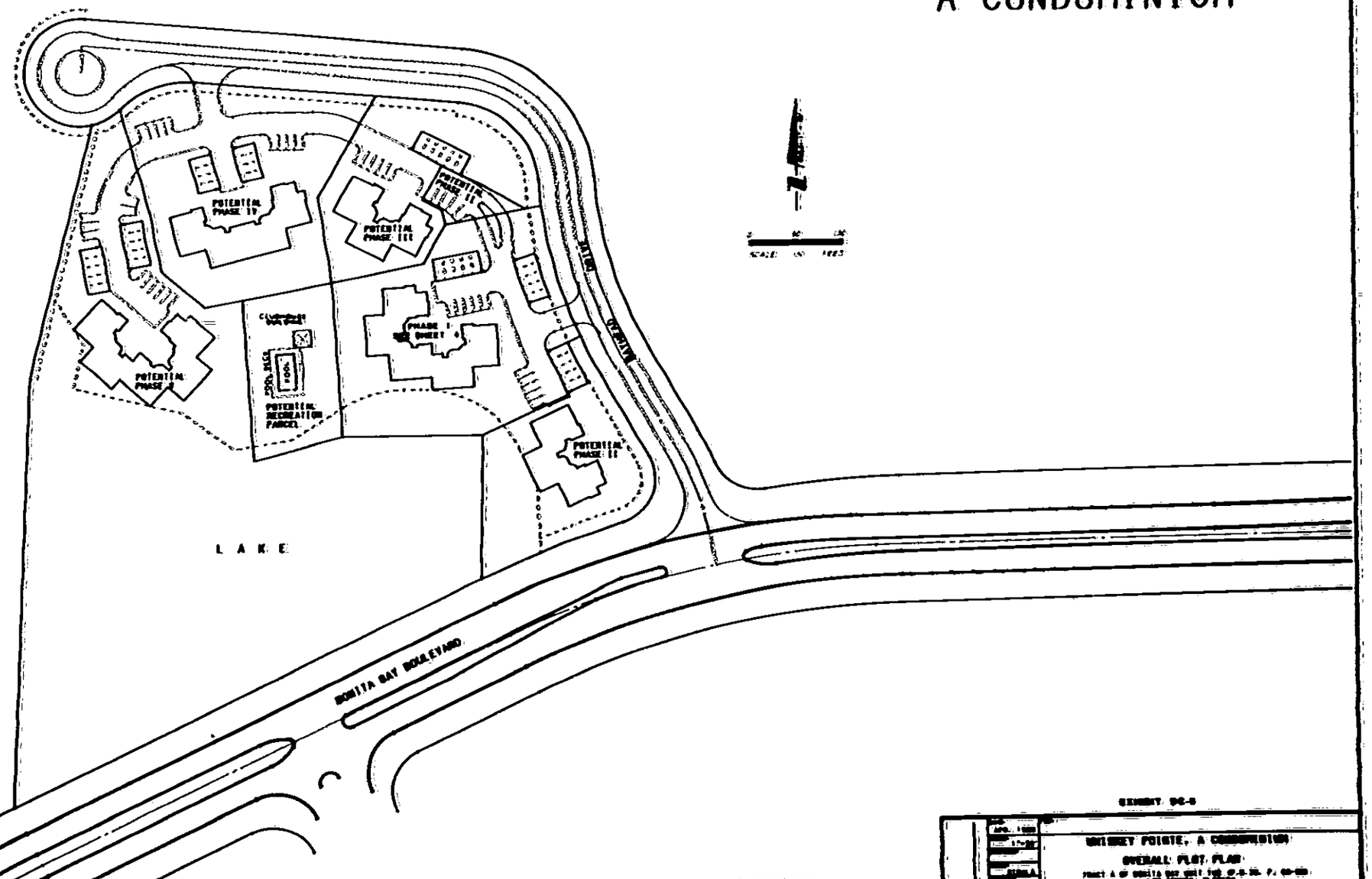
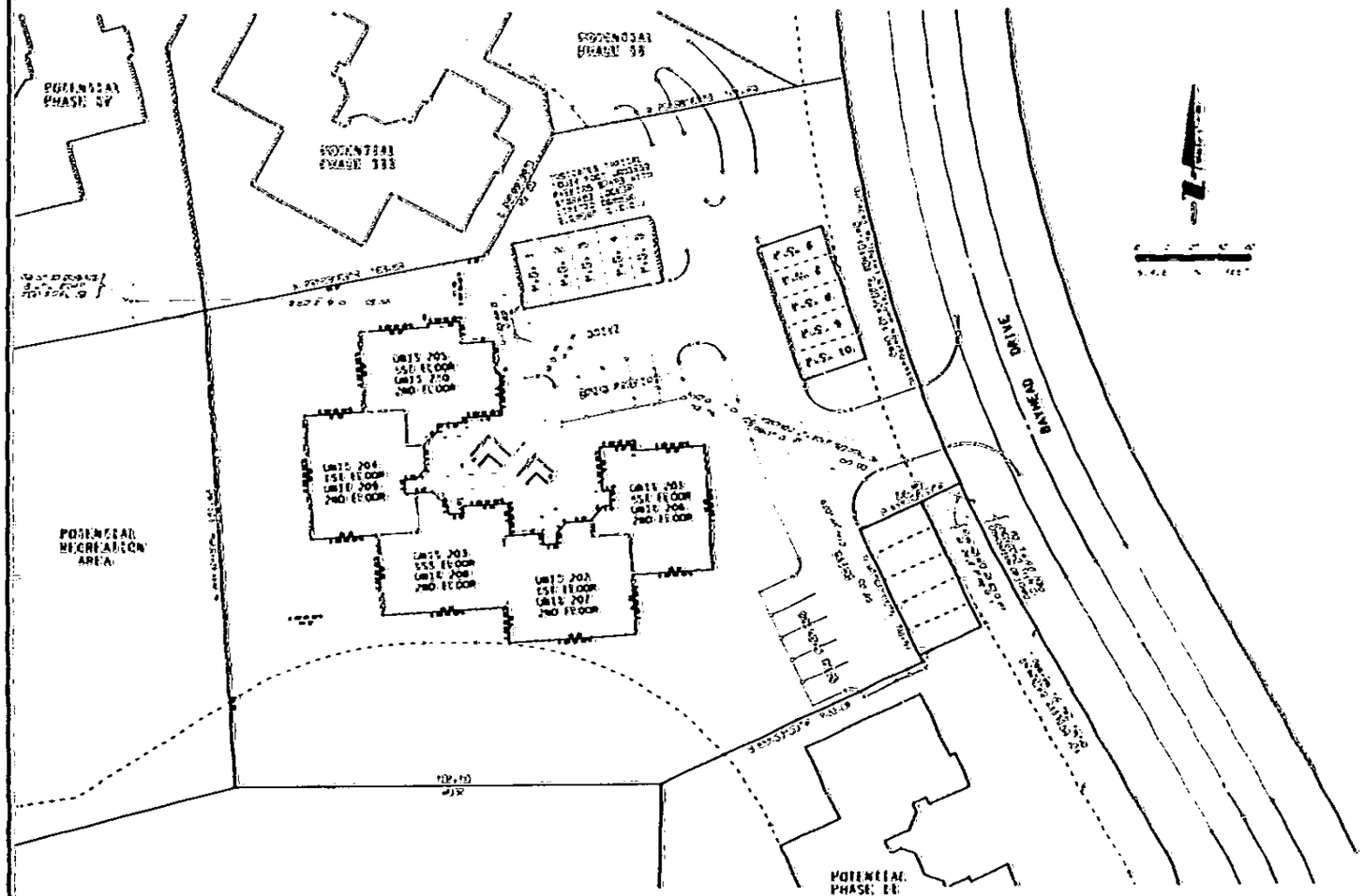


EXHIBIT 96-8

WHISKEY POINTE, A CONDOMINIUM
OVERALL PLOT PLAN

WHISKEY POINTE, A CONDOMINIUM PHASE I



GENERAL NOTES

UNIT SCHEDULE

UNIT NO.	FLOOR	PLAN TYPE	FLOOR ELEV.	CEILING ELEV.
201	1ST	A	12.00	20.00
202	1ST	B	12.00	20.00
203	1ST	C	12.00	20.00
204	1ST	D	12.00	20.00
205	1ST	E	12.00	20.00
206	2ND	A	20.33	28.33
207	2ND	B	20.33	28.33
208	2ND	C	20.33	28.33
209	2ND	D	20.33	28.33
210	2ND	E	20.33	28.33

ELEVATIONS ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM.

ALL IMPROVEMENTS ARE PROPOSED UNLESS NOTED OTHERWISE.

EXHIBIT DC-10

WHISKEY POINTE, A CONDOMINIUM
PHASE I PLOT PLAN, GENERAL NOTES AND UNIT SCHEDULE

WILSON MILLER BARTON SOLL & PEEK, INC.
ENGINEERS, PLANNERS & LAND SURVEYORS NAPLES, FLORIDA

SHEET 5

WHISKEY POINTE, A CONDOMINIUM

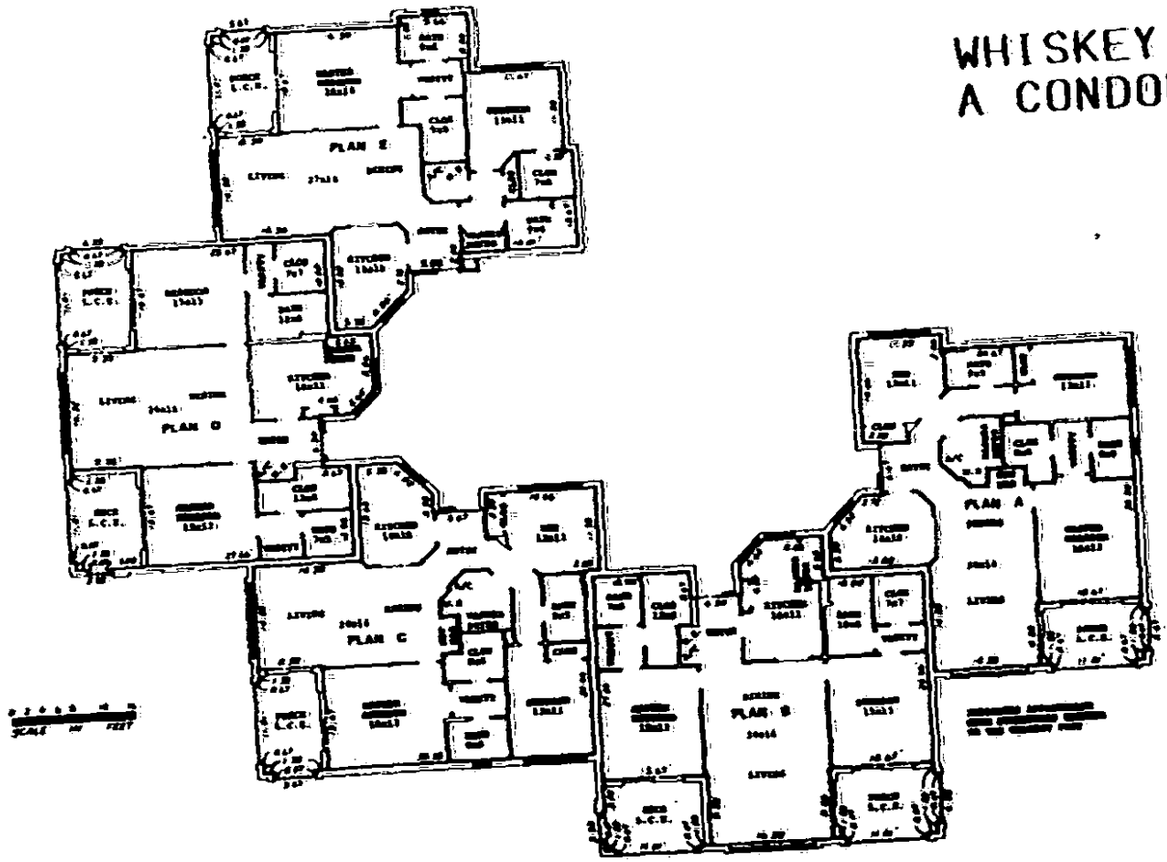


EXHIBIT "B-11"
UNIT TYPE PLANS
SHEET 3 OF 5

WILSON • MILLER • BARTON • SOLL & PEEK, INC.
ENGINEERS PLANNERS SURVEYORS
1383 AIRPORT-PULLING ROAD NORTH, NAPLES, FLORIDA 33942-9986 (813) 643-4545

Description of Recreation Parcel of Whiskey Pointe, A Condominium,
being a part of Tract A of BONITA BAY UNIT TWO
P.B. 38, pages 86-88) Lee County, Florida

Commencing at the northwest corner of Tract "A" of "BONITA BAY UNIT TWO" according to the plat thereof as recorded in Plat Book 38, pages 86 through 88, Public Records of Lee County, Florida;
thence along the boundary of said Tract "A", northeasterly 35.14 feet along the arc of a circular curve concave to the northwest, having a radius of 60.00 feet, through a central angle of 33°-33'-28" and being subtended by a chord which bears by a chord which bears North 60°-57'-40" East 34.64 feet to a point on said curve;
thence leaving said curve and said boundary of Tract "A", South 15°-00'-00" East 120.39 feet;
thence South 10°-30'-00" East 66.77 feet;
thence South 48°-00'-00" East 62.60 feet;
thence North 79°-00'-00" East 41.76 feet to the POINT OF BEGINNING of the parcel herein described;
thence continue North 79°-00'-00" East 98.16 feet;
thence South 3°-30'-00" East 171.43 feet;
thence South 75°-00'-00" West 99.31 feet;
thence North 3°-30'-00" West 178.42 feet to the Point of Beginning of the parcel herein described;
being a part of Tract "A" of "BONITA BAY UNIT TWO" (P.B. 38, pages 86 - 88) Lee County, Florida;
subject to easements and restrictions of record;
containing 0.40 acres more or less.

WILSON, MILLER, BARTON, SOLL & PEEK, INC.
Reg. Engineers and Land Surveyors

BY _____ DATE 4/20/88
Wilbur M. Christiansen, Jr., P.L.S. #2765

Not valid unless embossed with the Professional's seal.

V.O. 5668
Ref: 4K-151 (GGG:kjd rec par whiskey creek)
Date: April 18, 1988

OR2054 PG2800

EXHIBIT DC-12

RAYMOND W. MILLER, P.E. • WILLIAM L. BARTON, P.E. • THOMAS R. PEEK, P.E., P.L.S. • WILBUR M. CHRISTIANSEN, P.L.S. • CLIFFORD H. SCHNEIDER, P.E.
BENJAMIN G. PRATT, P.E., P.L.S. • CARL H. SOLL, P.L.S. • FERMIN A. DIAZ, P.E. • JOHN E. SOUTHWELL, P.L.S. • GARY L. GIANCA, CPA • ALAN D. REYNOLDS, A.I.C.P.
Fort Myers, Florida (813) 337-4511

WHISKEY POINTE, A CONODMINIUM
PHASE I
UNIT IDENTIFICATION AND ASSESSMENT SCHEDULE

The following is a list of the individual units and a schedule of the undivided interest that each of the units has in the Common Elements and Common Surplus of WHISKEY POINTE, A CONDOMINIUM, PHASE I, unless, and until, additional phases are submitted to the condominium form of ownership, and upon ownership of the units by individuals or entities other than the developer in this phase, each unit shall be assessed a proportion of the expenses of the Common Elements in the same fractional share:

BUILDING 2

UNIT NUMBER	FRACTIONAL UNDIVIDED SHARE
201	1/10th
202	1/10th
203	1/10th
204	1/10th
205	1/10th
206	1/10th
207	1/10th
208	1/10th
209	1/10th
210	1/10th

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ADDITIONAL PHASES

Upon submission of additional phases to this condominium, the undivided interest that each unit shall have in the common elements and the share of the expenses of the common elements shall be based upon a fraction. The numerator of such fraction shall be one (1) and the denominator shall be the total number of units that have been created from time to time and made a part of this condominium by amendment to this Declaration.

State of Florida

Department of State

I certify that the attached is a true and correct copy of the Articles of Incorporation of WHISKEY POINTE OF BONITA BAY CONDOMINIUM ASSOCIATION, INC., a corporation organized under the Laws of the State of Florida, filed on June 20, 1988, as shown by the records of this office.

The document number of this corporation is N27018.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the 21st day of June, 1988.

Jim Smith
Secretary of State

CR2E022 (8-87)

OR2054 PG2802

EXHIBIT DC-14

FILED
[illegible]
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF INCORPORATION

OF

WHISKEY POINTE OF BONITA BAY CONDOMINIUM ASSOCIATION, INC.

The undersigned by these Articles associate themselves for the purpose of forming a corporation not for profit under chapter 617, Florida Statutes and certify as follows:

ARTICLE I

NAME

1. The name of the corporation shall be:

WHISKEY POINTE OF BONITA BAY CONDOMINIUM ASSOCIATION, INC., whose address is 4001 Whiskey Pointe Lane, Bonita Springs, Florida 33923.

For convenience, the corporation shall be referred to in this instrument as the Association.

ARTICLE II

PURPOSE

2. The purpose for which the Corporation is organized is to provide an entity pursuant to the Condominium Act, Chapter 718, Florida Statutes for the operation of:

WHISKEY POINTE, A CONDOMINIUM to be located upon the lands described on attached Exhibit DC-6.

2.1 The Association shall make no distributions of income to its members, directors or officers.

ARTICLE III

POWERS

3. The Powers of the Association shall include and be governed by the following provisions:

3.1. The Association shall have all of the common law and statutory powers of a corporation not for profit not in conflict with the terms of these Articles.

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3.2. The Association shall have all of the powers and duties set forth in the Condominium Act, these Articles and the Declaration of Condominium, and all of the powers and duties reasonably necessary to operate the Condominium pursuant to the Declaration and as it may be amended from time to time, including but not limited to the following:

a. To make and collect assessments against members as unit owners to defray the costs, expenses and losses of the Condominium.

b. To use the proceeds of assessments in the exercise of its powers and duties.

c. The maintenance, repair, replacement and operation of the Condominium property.

d. The purchase of insurance upon the Condominium property and insurance for the protection of the Association and its members as apartment owners.

e. The reconstruction of improvements after casualty and the future improvement of the property.

f. To make and amend reasonable regulations respecting the use of the property in the Condominium.

g. To approve or disapprove the transfer, mortgage and ownership of apartments as may be provided by the Declaration of Condominium and the Bylaws.

h. To enforce by legal means the provisions of the Condominium Act, the Declaration of Condominium, these Articles, the Bylaws of the Association and the Regulations for the use of the property in the Condominium.

i. To contract for the management and maintenance of the Condominium and to authorize the management agent to assist the Association in carrying out its powers and duties by performing such functions as the collection of assessments, preparation of records, enforcement of rules, and maintenance of the common elements. The Association shall, however, retain at all times the powers and duties granted them by the Condominium Act, including, but not limited to, the

OR2054 PG2804

making of assessments, promulgation of rules, and execution of contracts on behalf of the Association.

j. To contract for the management or operation of portions of the common elements susceptible to separate management or operation, and to lease such portions.

3.3 The Association shall have no power to purchase a unit of the Condominium except at sales in foreclosure of liens for assessments for common expenses, at which sales the Association shall bid no more than the amount secured by its liens, or pursuant to an obligation to purchase created by the Declaration of Condominium. This provision shall not be changed without unanimous approval of the members and the joinder of all record owners of mortgages upon the Condominium.

3.4 All funds and titles of all properties acquired by the Association and their proceeds shall be held in trust for the members in accordance with the provisions of the Declaration of Condominium, these Articles of Incorporation and the Bylaws.

3.5 The Powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration of Condominium and the Bylaws.

3.6 If the Developer of the Condominium holds units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer:

a. Assessment of the Developer as a unit owner for capital improvement.

b. Any action by the Association that would be detrimental to the sales of units by the Developer. However, an increase in assessments for common expenses without discrimination against the Developer shall not be deemed to be detrimental to the sales of units.

ARTICLE IV

MEMBERS

4. The members of the Association shall consist of all of the record owners of units in the Condominium, and after termination of the condominium, shall consist of those who are members at the time of such termination and their successor and assigns.

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4.1 After receiving approval of the Association required by the Declaration of Condominium, change of membership in the Association shall be established by recording in the Public Records of Collier County, Florida, a deed or other instrument establishing a record title to a unit in the Condominium and the delivery to the Association of notice of such recordation. The owner designated by such instrument thus becomes a member of the Association and the membership of the prior owner is terminated.

4.2 The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his unit.

4.3 The owner of each unit shall be entitled to at least one vote as a member of the Association. The exact number of votes to be cast by owners of a unit and the manner of exercising voting rights shall be determined by the Bylaws of the Association.

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ARTICLE V

BOARD OF ADMINISTRATION

5. The affairs of the Association will be managed by a Board of Administration whose members shall be designated as Directors of the Association. The number of Directors shall be determined by the Bylaws but in no case shall be less than three and in the absence of a specific number being designated by the Bylaws, the number of Directors on the Board of Administration shall be three. Until control of the Association is turned over to the Unit owners other than the Developer, the Directors need not be members of the Association.

5.1 Directors of the Association shall be appointed by the Developer or elected at the annual meeting of the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Administration shall be filled in the manner provided by the Bylaws.

5.2 The members of the Board of Administration, and any vacancies in their number shall be filled by the remaining members of the Board. The election of members of the Board of Administration prior to the first annual meeting, or until the Developer elects to terminate control of the Condominium, shall be held pursuant to the provisions of Florida Statute 718.301. The non-developer unit owners must, at the time set for turnover of control to them elect a majority of the members of the Board of Administration, and accept control of the Association.

5.3 Prior to, or not more than 60 days after, the time that unit owners other than the Developer elect a majority of the members of the Board of Directors of the Association, the Developer shall deliver to the Association all property of the unit owners and of the Association held or controlled by the Developer and all items and documents that the Developer is required to deliver or turn over to the Association under the provisions of the Florida Condominium Act 1977.

5.4 The names and addresses of the members of the first Board of Administration, also sometimes referred to as Directors, who shall hold office until their successors are elected and have qualified or until removed, are as follows:

NAMES	ADDRESSES
W. LARRY McDONALD	213 South Airport Road Naples, Florida 33942
BOB L. LUNDSTROM	213 South Airport Road Naples, Florida 33942
ROBERT J. SMITH	213 South Airport Road Naples, Florida 33942

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ARTICLE VI

OFFICERS

6. The affairs of the Association shall be administered by the officers designated in the Bylaws. The officers shall be elected by the Board of Directors and shall serve at the pleasure of the Board of Directors. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

PRESIDENT:	BOB L. LUNDSTROM 213 South Airport Road Naples, Florida 33429
SECRETARY:	ROBERT J. SMITH 213 South Airport Road Naples, Florida 33942

TREASURER: W. LARRY McDONALD
213 South Airport Road
Naples, Florida 33942

ARTICLE VII

INDEMNIFICATION

7. Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer of the Association, whether or not he is a director or officer at the time such expenses are incurred, except when the director or officer is adjudged guilty of willful misfeasance or willful malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

ARTICLE VIII

BYLAWS

8. The first Bylaws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded by the Board of Directors or the members in the manner provided by the Bylaws.

ARTICLE IX

AMENDMENTS

9. Amendments to the Articles of Incorporation shall be proposed and adopted in the following manner:

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

9.2 A resolution for the adoption of a proposed amendment may be proposed by either the Board of Administration of the

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

(a) Not less than two-thirds (2/3rds) of the entire membership of the Board of Administration, and by not less than a majority of the votes of the entire membership of the Association; or

(b) Until the first election of directors, only by all of the initial directors.

ARTICLE X

TERM

10. The term of the Association shall be perpetual.

ARTICLE XI

REGISTERED AGENT

11. The initial registered agent of this corporation is Bob L. Lundstrom, with offices at 213 South Airport Road, Naples, Florida 33942.

ARTICLE XII

SUBSCRIBERS

12. The names and addresses of the subscribers of these Articles of Incorporation are as follows:

NAME	ADDRESS
W. LARRY McDONALD	213 South Airport Road Naples, Florida 33942
BOB L. LUNDSTROM	213 South Airport Road Naples, Florida 33942

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ROBERT J. SMITH

213 South Airport Road
Naples, Florida 33942

IN WITNESS WHEREOF, the subscribers have affixed their signatures this 20th day of May, 1988.

W. LARRY McDONALD

BOB L. LUNDSTROM

ROBERT J. SMITH

OR2054

STATE OF FLORIDA
COUNTY OF COLLIER

I HEREBY CERTIFY that on this day before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared W. LARRY McDONALD, one of the foregoing subscribers, and upon being sworn stated that he signed and executed the foregoing Articles of Incorporation for the use and purpose therein set forth.

PG2810

WITNESS my hand and official seal in the County and State last set forth above, on this the 20th day of May, 1988.

Mary Lou Breaz
Notary Public
My Commission Expires

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. JULY 1,1990
BONDED THRU GENERAL INS. UND.

STATE OF FLORIDA
COUNTY OF COLLIER

I HEREBY CERTIFY that on this day before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared BOB L. LUNDSTROM, and ROBERT J. SMITH, two of the foregoing subscribers, and upon being sworn stated that they signed and executed the foregoing Articles of Incorporation for the use and purpose therein set forth.

WITNESS my hand and official seal at Naples, Florida, on this the 20th day of May, 1988.

Mary Lou Bracy
Notary Public
My Commission Expires

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. JULY 1,1989
BONDED THRU GENERAL INS. UND.

OR2054

ACCEPTANCE OF REGISTERED AGENT

Having been named as Registered Agent for the Whiskey Point of Bonita Bay Condominium Association, Inc., as designated in the Articles of Incorporation, I hereby accept to act in this capacity, and agree to comply with the provision of said Act relative to keeping open said office.

Bob L. Lundstrom
Registered Agent

PG2811

LEGAL DESCRIPTION OF ENTIRE PARCEL

All of Tract A, Bonita Bay Unit Two, according to the plat thereof recorded in Plat Book 38, page 86, Public Records of Lee County, Florida.

FILED
[illegible] JUN 20 AM 10:[illegible]
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

OR2054 P028[illegible]2

EXHIBIT DC-6

BYLAWS

OF

WHISKEY POINTE OF BONITA BAY CONDOMINIUM ASSOCIATION, INC.

ARTICLE I

IDENTIFYING DATA

Section 1. Name of Association. The name of this corporation shall be WHISKEY POINTE OF BONITA BAY CONDOMINIUM ASSOCIATION, INC. and hereinafter the corporation shall be referred to as the Association.

Section 2. Address of Association. The principal office of the Association shall ultimately be at the condominium complex known as WHISKEY POINTE, a Condominium, 4001 Whiskey Pointe Lane, Bonita Springs, Florida 33923. Until facilities are available at that address the Association will have its principal office at 213 South Airport Road South, Naples, Florida 33942.

OR2054 PG2813

ARTICLE II

TERMS AND MEANINGS

The terms used herein shall have the meanings as defined in the Florida Condominium Act which comprises Chapter 718 of the Florida Statutes and is herein referred to as the Condominium Act.

ARTICLE III

MEMBERSHIP IN THE ASSOCIATION

Section 1. Membership. Membership in the Association shall be limited to unit owners of condominium units in WHISKEY POINTE, a Condominium, and transfer of such membership shall be made only as a part of and incident to the transfer of ownership of such condominium unit, with such transfers being subject to and controlled by the transfer procedures set forth in the Declaration of Condominium.

Section 2. Roster of Membership. The Secretary of the Association shall maintain a roster of the membership entitled to vote at the meetings as hereinafter provided.

ARTICLE IV

MEETINGS OF THE MEMBERSHIP

Section 1. Location. All meetings of the Association, unless otherwise provided for in the notice of such meetings, will take place at the office of the Association.

Section 2. Annual Meeting.

A. The first annual meeting of the membership shall be held within sixty (60) days after the unit owners, other than the Developer, are entitled to elect a Director, at a time within that period designated by the First Board of Directors.

B. The regular annual meetings shall be held each year at a specific time and place to be determined by the Board of Directors. Unless or until the Board of Directors establishes a different date, the meetings shall be held on the third Friday of April.

C. At the annual meeting, except as heretofore set forth and as otherwise provided in the Articles of Incorporation, a Board of Directors shall be elected which shall also be known as the Board of Administration, and such other business shall be transacted as may properly come before the meeting.

D. Written notice of the annual meeting shall be served upon or mailed by the Secretary to each member entitled to vote thereat, at such address as appears on the books of the corporation at least fourteen (14) days prior to the meeting. Unless a member waives in writing the right to receive such notice by mail, it shall be sent by U.S. mail to each unit owner. An officer, or director, of the Association shall provide an affidavit to be included in the official records of the Association, affirming that notices of the Association meeting were mailed or hand delivered in accordance with this provision to each unit owner at the address last furnished to the Association. Notice of the meeting shall also be posted in a conspicuous place on the condominium property at least fourteen (14) days before the annual meeting.

Section 3. Membership List. At least thirty (30) days before every election of Directors, a complete list of members entitled to vote at said election, arranged numerically by unit with the residence of each, shall be prepared by the Secretary. Such list shall be produced and kept for the said thirty (30) days and

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throughout the election at the office of the corporation and shall be open to examination by any member throughout such time.

Section 4. Voting Interests.

A. At each meeting of the Association, the owner of each unit shall be entitled to one vote. Where a unit is owned by more than one person, the vote for such unit shall be cast by any one of the owners of a unit or the primary occupant, if title is held in the name of an entity rather than an individual. If the right of the individual casting the vote for the unit is challenged by any other person or entity having an ownership interest in the same unit then the vote for that unit shall not be permitted or counted unless or until all entities having an ownership interest in the Unit agree as to which of them shall have the right to vote.

B. When a Corporation is the owner of a unit the vote for that unit may be cast by any director or officer of the corporation unless there is a dispute by an officer, director or stockholder of the corporation as to who holds such right and the Association is notified of such dispute in which case the Corporation shall have to produce a corporate resolution naming the proper person to cast the votem otherwise the vote for that unit shall not be considered on the matter before the Association.

C. When the unit is owned in the name of a Partnership or Trust, any partner or trustee shall have the right to cast the vote for the unit unless it is challenged by another partner, trustee or beneficiary in which case the vote shall not be considered unless adequate proof of the right to cast the vote is presented to and accepted by the Board of Directors.

D. The total number of votes number of votes shall be equal to the total number of units in the condominium and each individual vote of a unit must be cast as a whole and not in parts.

Section 5. Special Meetings.

A. Special meetings of the members, for any purpose or purposes, unless otherwise prescribed by statute or by the certificate of incorporation, may be called by the President or by a majority of the Board of Directors, and shall be called by the President or Secretary, at the request in writing of six (6) members. Such requests shall state the purpose or purposes of the proposed meeting.

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B. Written notice of a special meeting of members stating the time, place and object thereof shall be served upon or mailed to each member entitled to vote thereat, at such address as appears on the books of the corporation, at least fourteen (14) days before such meeting.

C. Business transacted at all special meetings shall be confined to the object stated in the notice thereof.

Section 6. Right to Vote and Proxies. At any meeting of the members, every voting interest having the right to vote shall be entitled to vote in person or by 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 ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the unit owner executing it. Holders of proxies need not be members.

Section 7. Quorum. A quorum at any members meeting shall be attained by the presence in person or by written proxy of persons entitled to vote and representing owners of thirty-four percent (34%) of the units. If, however, such quorum shall not be present or represented at any meeting of the members, the members entitled to vote thereat, present in person or represented by written proxy, shall have power to adjourn the meeting from time to time without notice other than announcement at the meeting until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting originally called.

Section 8. Vote Required to Transact Business. When a quorum is present at any meeting, the vote of a majority of the voting interests present in person or represented by written proxy, shall be binding on all unit owners for all purposes except where a larger vote is required by law.

Section 9. Order of Business. The order of business at the members meeting as far as practical shall be:

1.) Calling of roll and certifying of proxies.
2.) Proof of Notice of Meeting or Waiver of Notice.
3.) Reading and Disposal of any unapproved Minutes.
4.) Reports of Officers.
5.) Reports of Committees.

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6.) Election of Directors.
7.) Unfinished Business.
8.) New Business.
9.) Adjournment.

Section 10. Action By Members Without Meeting. Any action required or permitted to be taken at a meeting of the members may be taken by mail without a meeting if written consents to the action are signed by members having not less than the minimum number of votes that would be necessary to take such action at a meeting, or fifty-one percent (51%) of the total votes of the entire membership, whichever is greater, unless a lesser vote is permitted by law. If the requisite number of written consents are received by the Secretary within thirty (30) days of mailing notice of the proposed action to the members, a resolution passed by the Board of Directors on the action so authorized shall be of full force and effect as if a full membership meeting had been held at which the action had been approved. A record of the action taken in this manner shall be maintained in the same manner as minutes of a meeting.

Section 11. Parliamentary Rules. Roberts' Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with the Declaration of Condominium, Articles of Incorporation or these Bylaws. The president of chairman of the meeting may appoint a parliamentarian to rule on questions of parliamentary procedue and his decision on such matters shall be final. Any parliamentary point of order not raised at the meeitng to which it pertains shall be deemed waived.

Section 12. Adjourned Meetings. Any duly called meeting of the members may be adjourned to a later date by vote of the majority of the voting interests present, regardless of whether a quorum has been attained. When a meeting is adjourned it shall not be necessary to give notice of the time and place of its continuance if such are announced at the meeting being adjourned. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance.

ARTICLE V

MEMBERS OF THE BOARD OF ADMINISTRATION AND DIRECTORS

Section 1. Titles. The Directors of the Association shall be members of the Board of Administration with the titles being interchangeable within the meaning of these Bylaws and the other related condominium documents.

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Section 2. Number. The number of Directors which shall constitute the entire Board of Administration shall be not less than three (3). Until changed by a vote of the majority of unit owners then entitled to vote at a duly called annual meeting of the members, the number of Directors shall be three (3).

Section 3. Term. The term of the Directors shall be for the period from the date of their election or appointment until their successors have been elected at the next annual meeting.

Section 4. First Board of Directors. The developer shall be entitled to appoint the members of the first Board of Directors.

The members of the first Board of Directors shall serve until they are replaced by the Developer or until the unit owners elect their successors as hereinafter provided and any vacanies occuring before the election of their successors shall be filled through appointment by the developer.

Section 5. Subsequent Members of Board of Directors.

A. When unit owners other than the developer own fifteen (15) percent or more of the units in the condominium that will be operated ultimately by the Association, the unit owners other than the developer shall be entitled to elect not less than 1/3 of the members of the Board of Directors of the Association. Unit owners other than the developer are entitled to elect not less than a majority of the members of the Board of Directors of an Association:

(1) Three years after 50 percent of the units that will be operated ultimately by the Association have been conveyed to purchasers: or

(2) Three months after 90 percent of the units that will be operated ultimately by the Association have been conveyed to purchasers; or

(3) When all the units that will be operated ultimately by the Association 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; or

(4) 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.

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whichever occurs first. The Developer is entitled to elect at least one member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the units in the condominium operated by the Association.

B. Within sixty (60) days after the unit owners other than the Developer are entitled to elect a member or members of the Board of Directors of the Association, the Association shall call, and give not less than thirty (30) days' or more than forty (40) days' notice of, a meeting of a unit owners to elect the members of the Board of Directors. The meeting may be called and the notice given by any unit owner if the Association fails to do so.

C. If a Developer holds units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer:

(1) Assessment of the Developer as a unit owner for capital improvements.

(2) Any action by the Association that would be detrimental to the sales of units by the Developer. However, an increase in assessments for common expenses without discrimination against the Developer shall not be deemed to be detrimental to the sales of units.

D. Prior to, or not more than 60 days after, the time that unit owners other than the Developer elect a majority of the members of the Board of Directors of the Association, the Developer shall relinquish control of the Association, and the unit owners shall accept control. Simultaneously, the Developer shall deliver to the Association, at the developer's expense, all property of the unit owners and of the Association held or controlled by the Developer and all items and documents that the Developer is required to deliver or turn over to the Association under the provisions of the Florida Condominium Act.

Section 6. Election of Directors. Election of Directors shall be conducted in the following manner:

(a) Election of Directors shall be held at the annual members' meeting.

(b) A nominating committee may be appointed by the Board of Directors prior to the annual members' meeting. The

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committee, if appointed, shall submit its recommended nominees for directors on the floor of the annual meeting. Other nominations may be made from the floor.

(c) The election shall be by a plurality of the votes cast, each voting interest being entitled to cast its votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

Section 7. Vacancies on The Board. If the office of any Director or Directors becomes vacant by reason of death, resignation, retirement, disqualification or otherwise, a successor or successors shall be chosen at a special meeting of the remaining Directors through majority vote provided no less than a quorum is present at the meeting. The successor or successors so chosen shall hold office unitl the next annual meeting. At the next annual meeting the members shall elect a person or persons to fill the remaining unexpired term or terms, if any, of directors previoulsy replaced by action of the Board.

Section 8. Removal.

A. The original Directors, or any Director appointed by the developer to fill a vacancy arising prior to the turnover of control by the developer as provided for in Florida Statute §718.301, shall not be capable of being removed by vote of the voting interests.

B. No Director, other than those appointed by the developer and serving prior to the aforesaid turnover of control, shall continue to serve on the Board if, during his term of office his membership in the Association shall be terminated for any reason whatsoever.

C. A special meeting of the unit owners to recall a member of the Board of Administration may be called by ten percent (10%) of the voting interests, giving ntice of the meeting as required for a meeting of unit owners, and the notice shall state the purpose of the meeting.

D. If the recall is approved by a majority of all voting interests by a vote at a meeting, the recall shall be effective immediately, and the recalled member or members of the Board of Administration shall turn over to the Board any and all records of the Association in their possession within 72 hours after the meeting.

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Section 9. Salaries or Compensation. Neither directors nor officers shall receive compensation for their services unless compensation is approved by a majority of the voting interest. Nothing herein shall preclude the Board of Directors from employing a director or officer as an employee of the Association, nor preclude contracting with a director or officer for the management of the condominium or for any other service to be supplied by such director or officer. Directors and officers shall be compensated for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.

Section 10. Powers. The property and business of the corporation shall be managed and administered by the Board of Directors, which may exercise all corporate powers specifically set out in the Condominium Act, the Certificate of Incorporation, or the Declaration to which these bylaws are attached, which powers may be delegated to its agents, officers, contractors or employees, subject only to approval by the unit owners when that is specifically required.

Section 11. Meetings of Board of Directors.

A. Annual Meetings. The annual meeting of each Board of Directors newly elected by the members shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter as may be practical. The annual meeting of the Board of Diretors shall be held at the same place as the general members' meeting;

B. Special Meetings. Special meetings of the Board of Directors shall be held whenever called by the President or a majority of the Board of Directors. The meetings shall be open to all unit owners. Adequate notice of all meetings shall be posted conspicuously on the condominium property at least 48 hours in advance, except in an emergency. Notice of any meeting in which 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.

C. Quorum. A majority of the Board of Directors shall be necessary and sufficient at all meetings to constitute a quorum for the transaction of business, and the act of a majority present at any meeting at which there is a quorum shall be the act of the Board of Directors.

D. Adjourned Meetings. If at any meeting of the Board of Administration there be less than a quorum present, the majority of

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those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that might have been transacted at the meeting as originally called may be transacted without further notice.

E. Joinder in Meeting by Approval of Minutes. The joinder of a Director in the action of a meeting by signing and concurring in the Minutes of that meeting shall not constitute the presence of that Director for the purpose of determining a quorum.

F. Presiding Officer. The Presiding officer of Directors meetings shall be the Chairman of the Board if such an officer has been elected; and if none, the President shall preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

G. Budget Meetings. The following shall apply to any meetings at which the adoption of a budget is to be considered:

1) The Board of Administration shall mail a meeting notice and copies of the proposed annual budget of common expenses to the unit owners not less than fourteen (14) days prior to the meeting of the Board of Directors at which the budget will be considered. The meeting shall be open to the unit owners.

2) If an adopted budget requires assessment against the unit owners in any fiscal or calendar year exceeding 115% of the assessments for the preceding year, the board, upon written application of ten percent (10%) of the voting interests to the board, shall call a special meeting of the unit owners within thirty (30) days, upon not less than ten (10) days' written notice to each unit owner. At the special meeting, unit owners shall consider and enact a budget.

3) At any special meeting of the members required because the budget would result in an assessment in excess of 115% of the prior year assessment, the adoption of the budget shall require a vote of not less than a majority vote of all the voting interests.

4) The Board of Adminstration may propose a budget to the unit owners at such a meeting of members or in writing, and if the budget or proposed budget is approved by the unit owners at the meeting or by a majority of all the voting interests in writing, the budget shall be adopted.

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5) If a meeting of the unit owners has been called and a quorem is not attained or a substitute budget is not adopted by the unit owners, the budget adopted by the board of directors shall go into effect as scheduled.

6) In determining whether assessments exceed 115% of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the condominium property, anticipated expenses by the condominium association which are not anticipated to be incurred on a regular or annual basis, or assessments for betterments to the condominium property shall be excluded from the computation.

7) As long as the developer is in control of the Board of Administration, the Board shall not impose an assessment for any year greater than 115% of the prior fiscal or calendar year's assessment without approval of a majority of all the voting interests.

I. Minutes. The Minutes of all meetings shall be kept in a book available for inspection by unit owners or their authorized representatives and Board members at any reasonable time. The Association shall retain these Minutes for a period of not less than seven years.

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ARTICLE VI

OFFICERS

Section 1. Executive Officers. The executive officers of this corporation shall be a President, Vice President, Secretary and Treasurer, all of whom shall be elected annually by said Board of Directors. Any two of said offices may be united in one person except that the President shall not also be the Secretary, or an Assistant Secretary of the corporation. If the Board of Directors so determines, there may be more than one Vice President.

Section 2. Subordinate Officers. The Board of Directors may appoint such other officers and agents as they may deem necessary, who shall hold office at the pleasure of the Board of Directors and have such authority and perform such duties as from time to time may be prescribed by said Board.

Section 3. Tenure of Officers; Removal. All officers and agents shall be subject to removal, with or without cause at any time by action of the Board of Directors. The Board of Directors

may delegate powers of removal of subordinate officers and agents to any officer.

Section 4. President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the members and directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. He shall execute bonds, mortgages and other contracts requiring the seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

Section 5. Vice President. The Vice President shall be vested with all the powers and required to perform all the duties of the President in his absence, and such other duties as may be prescribed by the Board of Directors.

Section 6. Secretary.

A. The Secretary shall keep the Minutes of the meetings of the members and of the Board of Directors.

B. He shall see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law.

C. He shall be custodian of the corporate records and of the seal of the corporation and shall see that the seal of the corporation is affixed to all documents, the execution of which on behalf of the corporation under its seal is duly authorized in accordance with the provisions of these Bylaws.

D. He shall keep the register of the Post Office addresses of each unit owner which shall be furnished to the Secretary by such unit owner.

E. In general he shall perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

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Section 7. Treasurer.

A. The Treasurer shall keep full, accurate accounts of receipts and disbursements, and shall keep all books belonging to the corporation and shall deposit all monies and other valuable effects in the name and to the credit of the corporation in such depositories as may be designated by the Board of Directors.

B. He shall disburse the funds of the corporation as ordered by the Board, get proper vouchers for such disbursements, shall render to the President and Directors at the regular meeting of the Board or whenever they may require an account of all his transactions as Treasurer and of the financial condition of the corporation.

C. He may be required to give the corporation a bond in the sum and with one or more sureties satisfactory to the Board, for the faithful performance of the duties of his office and the restoration to the corporation, in the case of his death, resignation or removal from office, of all books, papers, vouchers, money or other property of whatever kind in his possession belonging to the corporation.

Section 8. Vacancies. If the office of the President, Vice President, Secretary or Treasurer, one or more, becomes vacant by reason of death, resignation, disqualification or otherwise, the remaining Directors by a majority vote of the whole Board of Directors provided for in these Bylaws may choose a successor or successors who shall hold office for the unexpired term.

Section 9. Resignations. Any Director or other officer may resign his office at any time, such resignation to be made in writing, and to take effect from the time of its receipt by the corporation, unless some time be fixed in the resignation, and then from that date; provided that the acceptance of a resignation shall be required to make it effective.

Section 10. Salaries Fees. The salaries or fees, if any, to be paid to officers shall be determined by the Directors and subject to approval by a majority of the members.

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ARTICLE VII

FINANCES

Section 1. Fiscal Year. The fiscal year shall commence on January 1st and end on December 31st of each year unless or until the Board of Directors establishes a different fiscal year and notifies each of the then existing members of the change.

Section 2. Depository And Checks. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. All checks or demands for money and notes of the Association shall be signed by and one (1) of the following officers: President, Vice-President, secretary or Treasurer, or by such officer or officers or such other person or persons as the Board of Administration may from time to time designate. The Board of Administration, by resolution, may require more that one (1) signature.

Section 3. Annual Budget.

A. The Board of Directors shall propose an annual budget each year and shall mail a copy of the Association's proposed annual budget of common expenses to each Unit Owner not less than fourteen (14) days prior to the meeting of the Board of Administration at which the budget will be considered together with a notice of that meeting. Such meeting of the Board of Administration shall be open to all Unit Owners.

B. The Board of Directors may approve annual budgets so long as the amount does not exceed one hundred fifteen percent (115%) of the Assessment for the preceding year.

C. 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 Florida Statute §718.504(20). In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance for any item for which the deferred maintenance expense or replacement cost is greater than $10,000. These accounts shall include, but not be limited to, roof replacement, building painting, and pavement resurfacing. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost of each reserve item. If a meeting of the unit

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owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves, as included in the budget shall go into effect.

Section 4. Financial Statement. The Board of Directors shall, within 60 days of the end of the fiscal year, mail or furnish by personal delivery to each unit owner a reasonably detailed financial report of actual receipts and expenditures for the previous twelve (12) months. The report shall show the amounts of receipts by accounts and receipt classifications and shall show the amounts of expenses by accounts and expense classifications.

Section 5. Assessments. Assessments against the unit owners for their shares of the items of the budget shall be made by the Board of Administration for the fiscal year annually in advance. The amount required from each unit owner to meet the annual budget shall be divided into four equal assessments, one of which shall be due on the first day of each calendar quarter of the year for which the assessments are made, or thirty days after the mailing to the unit owners concerned of a statement for the assessment coming due, whichever date shall last occur. If assessments are not made annually as required, quarterly assessments shall be presumed to have been made in the amount of the last prior quarterly assessment, and assessments in this amount shall be due on the first day of each calendar quarter until changed by an amended assessment. In the event a quarterly assessment shall be insufficient in the judgment of the Board of Administration to provide funds for the anticipated current expense for the ensuing quarter and for all of the unpaid operating expenses previously incurred, the Board of Administration shall amend the budget and shall make amended quarterly assessments for the balance of the year in sufficient amount to meet these expenses for the year; provided, however, that any account of the amended budget that exceeds the limit upon increases for that year shall be subject to the approval of the membership of the Association as previously required in these Bylaws.

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Section 6. Charges. Charges by the Association against members for other than common expense shall be payable in advance. Charges for other than common expense may be made only after approval by the member, to be charged, and may include but shall not be limited to charges for maintenance services furnished at the request of the individual member and other services furnished for the benefit of the specific member.

Section 7. Assessments for Emergencies. Assessments for common expenses of emergencies that cannot be paid from the annual assessments for common expenses shall be due only after 30 days' notice is given to the unit owners concerned, and shall be paid in such manner as the Board of Administration may require in the notice of assessment.

Section 8. Transfer Fees. The Association may charge a fee for processing the approval of a tranfer in connection with the sale, lease, sublease, or other transfer of a unit in an amount not to exceed Fifty Dollars ($50.00). 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.

ARTICLE VIII

VOLUNTARY BINDING ARBITRATION

Any internal dispute among the unit owners and the Association or the agents and assigns of such may be submitted to voluntary binding arbitration by an arbitrator of the Division of Florida Land Sales and Condominiums of the Department of Business Regulations. When so submitted the matter shall be heard and governed by Rules 7D-50.01 through 7D50.26 of the Division of Florida Land Sales and Condominiums or other appropriate rules of that Agency.

ARTICLE IX

SEAL

The seal of the corporation shall have inscribed thereon the name of the corporation, the year of its organization and the words "non profit." Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise.

ARTICLE X

COMPLIANCE AND DEFAULT; REMEDIES

In addition to the remedies provided in Section 20 of the Declaration, the following provisions shall apply:

Section 1. Fines. The Board of Directors may levy reasonable fines against units whose owners commit violations of the Condominium Act, the provisions of the condominium documents or Association rules and regulations, or condone such violations by

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their family members, guests or lessees. The fines shall be in an amount deemed necessary by the Board to deter future violations, but in not event shall any fine exceed the maximum allowed by law. The procedure for imposing such fines shall be as follows:

A. The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days, and the notice shall include:

1) A statement of the date, time and place of the hearing.

2) A statement of the provisions of the Declaration, Bylaws or rules which have allegedly been violated.

3) A short and plain statement of the matters asserted by the Association.

B. The party against whom the fine may be levied shall have a reasonable 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.

Section 2. Correction of Health and Safety Hazards. Any violations which are deemd by the Board of Directors to be a hazard to the public health or safety may be corrected immediately as an emergency matter by the Association.

Section 3. Voluntary Binding Arbitration. In the event of a dispute between one or more unit owners and/or the Association arising from the operation of the Condominium, the parties may submit the dispute to voluntary binding arbitration under the rules of the Division of Florida Land Sales, Condominiums and Mobile Homes.

Section 4. Enforcement of Rules and Regulations. If any dispute over the enforcement or interpretation of Association Rules and Regulations should arise, either between two or more unit owners, or between the Association and one or more unit owners, it is intended that such dipute be resolved by agreement or by voluntary binding arbitration, and not by resorting to the courts. For this purpose, no party to such a dispute shall be entitled to recover attorney's fees as a prevailing party in any lawsuit involving the disputed matters unless the party has, before filing the lawsuit, offered in writing to submit the dispute to volunatry

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binding arbitration as provided for in the Condominium Act. If the other party accepts the offer, both parties shall proceed without undue delay to submit the issue to arbitration, and no lawsuit may be filed until the arbitration process has been concluded. If the other party refuses the offer, he shall not be entitled to recover attorney's fees in the lawsuit. Nothing herein shall be construed to prevent the Association from recovering attorney's fees in any action brought to collect unpaid assessments, including fines, or to require the Association to submit assessment collection disputes to arbitration.

Section 5. Availability of Remedies. Each member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy the condominium property free from unreasonable restraint and annoyance.

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ARTICLE XI

SURRENDER

In the event the Association becomes the owner of a unit, the prior unit owner member or any other person or persons in possession by or through the right of such prior member, shall promptly surrender the owned unit to the corporation in good repair, ordinary wear and tear and damage by fire or other casualty excepted, and the corporation shall have the right to enter and to possess the unit, after complying with applicable Florida law.

ARTICLE XII

NOTICES

Section 1. Notice. Whenever, under the provisions of the statutes, the Certificate of Incorporation or these Bylaws, notice is required to be given to any Director or member, it shall be construed to mean either personal notice, or notice given in writing by mail by depositing the same in the Post Office or letter box in a postpaid envelope addressed to such Director or member as his name appears on the books of the corporation.

Section 2. Waiver of Notice. Whenever any notice is required to be given under the provisions of the statutes, the Certificate of Incorporation, Declaration of Condominium or these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed to be equivalent to the required notice.

ARTICLE XIII

DEFINITIONS

Whenever the masculine singular form of the pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, whenever the context so requies.

ARTICLE XIV

AMENDMENTS

These Bylaws may only be altered amended or added to in accordance with the following terms, conditions and procedures:

A. Proposed amendments shall contain the full text of the Bylaws with proposed new words in the text underlined and words to be deleted lined through with hyphens, unless the proposed change is so extensive that this procedure would hinder rather than assist the understanding of the proposed amendment. If the proposed change is so extensive the use of underlining and hyphens as indications of words added or deleted will not be necessary. However, in such cases a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Bylaw. See Bylaw (giving identifying data) for present text."

B. Notice of the proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

C. A resolution adopting a proposed amendment may be proposed by either the Board of Administration of the Association or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval or disapproval in writing providing it is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, the approval of an amendment must be either by:

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a. By not less than a majority of the votes of the entire membership of the Association; or

b. Until a majority of the Directors are elected by members other than the Developer of the Condominium, only by all of the Directors.

D. Alternatively, amendments may be adopted without a meeting by following the procedures set forth in Article IV, Section 10 of these Bylaws.

E. No amendment to these Bylaws is valid unless recorded in the Public Records of Collier County, Florida with an identification on the first page of such amendment of the Book and Page number of the Public Records where the Declaration of Condominium is recorded.

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ARTICLE XV

OFFICIAL RECORDS

The Association shall maintain a copy of each of the following, where applicable, which shall constitute the official records of the Association:

A. The plans, permits, warranties, and other items provided by the developer pursuant to §718.301(4).

B. A photocopy of the recorded Declaration of each Condominium operated by the Association and all amendments thereto.

C. A photocopy of the recorded Bylaws of the Association and all amendments thereto.

D. A certified copy of the Articles of Incorporation and all amendments thereto.

E. A copy of the current Rules and Regulations.

F. A book or books containing the minutes of all meetings of the Association, of the Board of Directors, and of Unit Owners, which minutes shall be retained for a period of not less than seven (7) years.

G. A current roster of all Unit Owners, their mailing addresses, unit identifications, voting certifications, and if known telephone numbers.

H. All current insurance policies of the Association and Condominiums operated by the Association.

I. A current copy of any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility.

J. Bills of sale or transfer for all property owned by the Association.

K. Accounting records for the Association and separate accounting records for each condominium it operates, according to good accounting practices. All accounting records shall be maintained for a period of not less than seven (7) years. The accounting records shall include, but are not limited to:

1. Accurate, itemized, and detailed records of all receipts and expenditures.

2. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the Unit Owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.

3. All audits, reviews, accounting statements, and financial reports of the Association or Condominium.

4. All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of one (1) year.

L. Voting proxies, which shall be maintained for a period of one year from date of the meeting for which the proxy was given.

M. All rental records where the Association is acting as agent for the rental of Condominium Units.

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ARTICLE XVI

ADMINISTRATIVE RULES AND REGULATIONS

Except for the restrictions and regulations specifically set out in the Declaration of Condominium or elsewhere in these Bylaws, the Board of Administration shall have the power to pass, alter or amend Rules and Regulations governing the details of the operation and use of the common elements.

The foregoing were adopted as the Bylaws of WHISKEY POINTE OF BONITA BAY CONDOMINIUM ASSOCIATION, INC., a corporation not for profit under the laws of the State of Florida at the first meeting of the Board of Directors.

Charlie Green Clerk of Circuit Court, Lee County Fla.
RECORD VERIFIED
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