

DECLARATION OF CONDOMINIUM

OF

DAVIS LAKE
CONDO
A Condominium

Made this 4th day of February, A.D., 1983, by Outer Island Development of Florida, Inc., a Florida Corporation, herein called Developers, for itself, its grantees and assigns therefore.

KNOW ALL MEN BY THESE PRESENT that the Developer makes the following declarations:

FIRST - PURPOSE: The purpose of this declaration is to submit the lands herein described and the improvements now or here after constructed thereon to the condominium form of ownership and use in the manner provided by Chapter 718, Florida Statutes, herein called the Condominium Act.

A. **Name:** The name by which this Condominium is to be identified is Davis Lake Condominium. The name of the Condominium Association shall be Davis Lake Condominium Association Inc. The address of the Association is Rt. 19 Box 73, Davis Road, Fort Myers, Florida 33908.

B. **The Land:** The lands owned by the developer which are hereby submitted to the condominium form of ownership are the following described lands lying in Lee County, Florida.

S ½ of the E ½ of Govt. Lot 3, Section 2
Township 46 South, Range 23 East,
Lee County, Florida.

SECOND – DEFINITIONS: The terms used herein and in the By-Laws shall have the meaning stated in the Condominium Act and as follows unless the context otherwise requires:

A. **Apartment:** means a part of the condominium property, which is subject to private ownership and is synonymous with “unit”.

B. **Apartment Building:** means a separate building containing units or apartments.

C. **Apartment Owner:** means the fee simple owner of a condominium parcel or the owner of any lesser estate excluding, however, a tenant or lessee, and also excluding the Association if it acquires title to one or more apartments.

D. **Assessment:** means a share of the funds required for the payment of common expenses, which from time to time is assessed against the apartment owner.

E. **Association:** means the entity responsible for the operation of the condominium, to wit: Davis Lake Condominium Association Inc., and its successors.

F. **By-Laws:** means the Association By-Laws for the government of the condominium as they exist from time to time.

G. **Common Elements:** means the portions of the condominium property not included in the unit or apartment and shall include:

1. The tangible personal property required for the maintenance and operation of the condominium, even though owned by the Association.
2. The personal property and installation required for furnishing utility and other services to more than one apartment or to an apartment other than the apartment containing the installation concerned, such as electric power, hot and cold water, heating, refrigeration, air conditioning, garbage and sewer disposal and telephone and which installations shall include tanks, motors, pumps, fans, compressors, antennas, ducts, conduits, plumbing, wiring and other facilities.
3. Easements, including but not limited to easements for support and access.
4. The land and the parts of the apartment buildings not included in the several apartments.

5. All other portions or elements of the condominium property which are rationally of common use or necessary to the existence, upkeep and safety of the condominium.

H. Common Expenses: means the expenses for which the several apartment owners are liable to the Association and include:

1. Expenses of administration; expenses of maintenance, operation, repair or replacement of the common elements; and of the portion of apartments to be maintained by the association.
2. Expenses declared common expenses by provisions of this Declaration, the By-Laws or by proper resolution of the Association
3. Any valid charge against the condominium as a whole.

I. Common Surplus: means the excess of all receipts of the Association, including but not limited to assessments, rents, profits and revenues on account of the common elements, over the amount of common expenses.

J. Condominium: means that form of ownership of condominium property under which units or improvements are subject to ownership by one or more owners, and there is appurtenant to each unit as part thereof an undivided share in the common elements.

K. Condominium Parcel: means a unit together with an undivided share in the common elements, which is appurtenant to the unit.

L. Condominium Property: means and includes the land in a condominium, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.

M. The Condominium Documents: shall be this Declaration together with the following exhibits, which are made a part hereof:

Exhibit "A" – Survey and plot plan of the land and buildings.

Exhibit "B" – Plan of apartments in the buildings.

Exhibit "C" – Plan showing elevations.

Exhibit "D" – Certificate of the surveyor.

Exhibit "E" – Articles of Incorporation.

Exhibit "F" – By-Laws

N. Limited Common Elements: means and includes those common elements, which are reserved for the use of a particular unit or units to the exclusion of all other units.

O. Record Owner: Fee simple owner as reflected by the Lee County, Florida, Public Records or Records of the Association.

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

Q. Unit: Is synonymous with "Apartment".

R. Utility Services: as used in the Condominium Act and construed with reference to this condominium, and as used in this Declaration and By-Laws, shall include but not be limited to electric power, telephone, hot and cold water, heating, refrigeration, air conditioning, garbage, trash and sewage disposal.

S. Institutional Mortgagee: is the owner and holder of a mortgage encumbering a condominium parcel, which owner and holder of said mortgage is either a bank, life insurance company, Federal or State Savings and Loan, Mortgage or Real Estate Investors Trust, mortgage banker, union pension fund, institutional mortgage broker, Federal or State governmental agency or authority or a lender generally recognized as an institutional type lender.

THIRD – DEVELOPMENT PLAN: The condominium is described and established as follows:

A. Survey and Plot Plan: A survey and plot plan of the land showing the apartment buildings and improvements being submitted to condominium by this Declaration is attached as “Exhibit A”.

B. Easements: Easements are reserved through the condominium property as may be required for utility services in order to adequately serve the condominium; provided, however, such easements through an apartment shall be only according to the plans and specifications for the building containing the apartment, or as the building is constructed, unless approved in writing by the apartment owner. Non-exclusive easements, for the use and benefit of occupants, are hereby granted for ingress and egress to the public way or road known as Davis Road over the walks and parking areas serving the units of the Condominium as part of the common elements.

C. Improvements: The improvements upon the land include the following:

1. Apartment Building: The condominium includes ten (10) buildings having five (5) apartments on each of two (2) apartment levels or floors as shown in “Exhibit B”.

2. Other Improvements: The condominium includes a swimming pool, tennis court and automobile parking area as shown on Exhibit “A” and which are part of the common elements.

D. Apartments: General Provisions. The following provisions shall apply to each apartment or unit.

1. Boundaries: Each apartment shall include that part of the building containing the apartment, which lies within the boundaries of the apartment, which boundaries are described as follows:

a) Upper and Lower Boundaries: The upper and lower boundaries of each apartment shall be the following boundaries:

(1) Upper Boundary: The horizontal plane of the lower surfaces of the ceiling material;

(2) Lower Boundary: The horizontal plane of the lower surfaces of the floor slab.

b) Parametrical Boundaries: The parametrical boundaries of the apartment shall be the following boundaries extended to an intersection with the upper and lower boundaries.

(1) Exterior Building Walls: The intersecting vertical plane adjacent to and which includes the exterior of the outside walls of the apartment building bounding an apartment and where the outside is a door, a part thereof, a balcony, porch or terrace, the parametrical boundaries shall be the intersecting vertical planes adjacent to and which include all such structures. (NOTE: Exterior plaster or stucco and exterior paint are part of the common elements.)

(2) Interior Building Walls: The vertical planes of the centerlines of walls bounding an apartment extended to intersections with other parametrical boundaries.

E. Common Elements: the common elements shall include the land and all other parts of the condominium not within the apartments.

F. Shared Use of Common Elements: Condominium unit owners shall have usage of the common elements described in the Declaration.

G. Amendment of Plans and Completion or Addition of Improvements:

(1) Alteration of Apartment Plans: Developer reserves the right to change the interior design and arrangement of all units, and to alter the boundaries between units, so long as Developer owns the units altered. No such change shall increase the number of apartments beyond a total of 100, nor alter the boundaries of the common elements without amendment of this Declaration by approval of the Association, apartment owners, and owners of mortgages in the manner elsewhere provided. If Developer shall make any changes in units so authorized, such changes shall be reflected by an amendment of this Declaration. If more than one unit is concerned, the Developer shall apportion between the units the shares in the common elements, which are appurtenant to the units concerned.

(2) Amendment of Declaration: An amendment of this Declaration reflecting such alteration of apartment plans by the developer need be signed and acknowledged only by the developer and need not be approved by the Association, apartment owners, or lienors or mortgagees of apartments or of the Condominium, whether or not elsewhere required for an amendment.

FOURTH – THE APARTMENTS: The apartments of the Condominium are described more particularly and the entitlements and obligations of the owners established as follows:

A. Apartment Plans: Attached is Exhibit “B” delineating typical apartment floor plans.

B. Apartment Numbers: Each apartment is identified by a three (3) digit number. The first digit identifies the building number. Building one is located adjacent to Davis Road at the southerly entry drive. Building two through ten continue in a consecutive and clockwise manner. The centre digit identifies the floor level beginning with one on the ground level and continues through two on the second apartment level in each building. The third digit identifies the apartment number in each building beginning with 1 and continuing through 5 on each level.

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

1). Common Elements and Common Surplus: The undivided share in the land, swimming pool and other common elements and in the common surplus which is appurtenant to each apartment as follows:

An undivided 1/99 share to each owner of a unit.

2). Automobile Parking Spaces: The common elements include parking areas for automobiles for apartment owners and their guests. The automobile parking spaces for each apartment may be designated as to the appropriate apartment by the Condominium Association.

3). Association Membership: The membership of each apartment owner in the Association and the interest of each apartment owner in the funds and assets held by the Association.

4). Liability: Each apartment owner shall be liable for a proportionate share of the common expenses, to wit:

1/99 for each owner of a unit.

FIFTH – MAINTENANCE: ALTERATION AND IMPROVEMENTS: The responsibility for the maintenance of the condominium property and restrictions upon alteration and improvement therein, shall be as follows:

A. Apartments:

1). By the Association: The Association shall maintain, repair and replace at the Association expenses:

(a) All portions of an apartment except, interior surfaces contributing to the support of the apartment building, which portions shall include but not be limited to the outside walls of the apartment building and all fixtures on the exterior thereof, boundary walls of apartments, floor and ceiling materials, load-bearing columns and load-bearing walls.

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

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

2) By the Apartment Owner: The responsibility of the apartment owner shall be as follows:

(a) To maintain, repair and replace at his expense all portions of his apartment except the portions to be maintained, repaired and replaced by the Association. Such shall be done without disturbing the rights of other apartment owners. The portions of the air conditioning and heating system, including the compressor,

which serve only one Unit, located beyond the boundaries of the Unit, are Limited Common Elements of the Unit served and are the maintenance, repair and replacement responsibility of the Unit Owner. However, the Association shall continue to maintain, repair and replace the coolant line which runs between the air compressor and the air handler, regardless of where such lines are located

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

(c) To promptly report to the Association any defect or need for repairs the responsibility for the remedying of which is that of the Association.

3) Alteration and Improvements: Except as elsewhere reserved to the developer, neither an apartment owner nor the Association shall make any alterations in the portions of an apartment or apartment building which are to be maintained by the Association, or remove any portion thereof, or make any additions thereto, or do anything which would jeopardize the safety or soundness of the apartment building, or impair any easements without first obtaining approval in writing of owners of all other apartments in the same building and approval of the Board of Directors of the Association. A copy of plans for all such work prepared by an engineer licensed to practice in this state shall be filed with the Association prior to the start of the work. All apartments are equipped with padded carpeting at the time of sale by the developer and continuance in place of padded carpeting is deemed essential to maintaining a quiet atmosphere to contiguous apartments. Therefore, no apartment owner shall be permitted to leave his floor uncarpeted without the express approval of the Board of Directors of the Condominium Association.

B. Common Elements:

1). By the Association: The maintenance and operation of the common elements shall be the responsibility and the expense of the Association.

2). Alteration, Improvement and Additions: Material additions or substantial additions to the common elements may be authorized by approval of two-thirds (2/3) of the voting interests, present in person or by proxy and voting at duly noticed meeting of the Association at which a quorum has been obtained or by the written approval of the two-third (2/3) of the entire voting interests. Any approval of the owners required by this section may be obtained at a meeting of the members, by written consent, or by a combination of both methods.

SIXTH – ASSESSMENTS: The making and collection of assessments against apartment owners for common expenses shall be pursuant to the By-Laws and subject to the following provisions;

A). Share of Common Expenses: Each apartment owner shall be liable for a proportionate share of the common expenses, and shall share in the common surplus, such shares being the same as the undivided share in the common elements which is appurtenant to the apartment owned by him. Provided however, that during any period of time in which there are less than ten (10) buildings being maintained and operated by the Association, such as the maintenance and operation of less than ten (10) buildings pending reconstruction of the other buildings after a casualty, the common expenses attributable only to the maintenance and operation of such buildings shall be assessed only to the owners of apartments in those buildings and in the proportions which their respective shares in the common elements bear to each other.

B). Interest, Application of Payments: Assessments and installments thereon paid on or before ten (10) days after the date when due shall not bear interest, but all sums not paid on or before ten (10) days after the date when due shall bear interests at the highest rate permitted by law from the date when due until paid. All payments upon account shall be first applied to interest and then to the assessment first due.

C). Lien for Assessments: The Association shall have a lien on each condominium parcel for any unpaid assessments, and interest thereon, against the unit owner of such condominium parcel. Said lien shall also secure reasonable attorney's fees incurred by the association incident to the collections of such assessment or enforcement of such lien. Said lien shall be effective from and after the time of recording in the public records in the court in which the condominium parcel is located of a claim of lien stating the description of the condominium parcel, the name of the record owner, the amount due and date when due, and the lien shall continue in effect until all sums secured by the lien shall have been fully paid. Such claims of lien shall include only assessments, which are due and payable when the claim of lien is recorded. Such claims of liens shall be signed and verified by an officer or agent of the Association and shall then be entitled to be recorded. Upon full payment, the party making payment shall be entitled to recordable satisfaction of the lien. All such liens shall be subordinate to the lien of a mortgage or other lien recorded prior to the time of recording of the claim of lien.

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

E). Assessments Pending Foreclosure: Where the mortgagee of a first mortgage of record or other purchaser of a condominium unit obtains title to the condominium parcel as a result of foreclosure of the first mortgage, or as a result of deed given in lieu of foreclosure, such acquirer of title, his successors and assigns shall not be liable for the share of common expenses or assessments by the Association pertaining to such condominium parcel or chargeable to the former unit owner of such parcel which becomes due prior to acquisition of title as a result of foreclosure, unless such share is secured by a claim of lien for assessments that is recorded prior to the recording of the foreclosed mortgage. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectable from all the unit owners including such acquirer, his successors and assigns. The forgoing provision may apply to any mortgage of record and shall not be restricted to first mortgages of record. A first mortgagee acquiring title to a condominium parcel as a result of foreclosure or a deed in lieu of foreclosure, may not during the period of its ownership of such parcel, whether or not such parcel is unoccupied, be excused from the payment of some or all of the common expenses coming due during the period of such ownership.

F). The Developer shall be excused from the payment of all assessments for common expenses against all units owned by the developer until June 30, 1984. The developer hereby guarantees that until June 30, 1984, the proposed assessment for common expenses of the condominium imposed upon the unit owners shall not exceed \$68.76 per month per unit and that any amount of common expenses incurred during that period that are not produced by the assessments receivable from unit owners at the guaranteed level shall be paid by the developer.

SEVENTH – ASSOCIATION: The operation of the condominium shall be by a corporation not for profit in accordance with the laws of the State of Florida, and shall fulfill its functions pursuant to the following provisions:

A. Name: The name of the Association is Davis Lake Condominium Association Inc.

B. Powers: The Association has all the powers and duties set forth in the Condominium Act and any granted by statutory or common law, and all of the powers and duties reasonably necessary to operate the condominium as set forth in the Declaration and the said Association's Articles and By-Laws, and as they be amended from time to time. The Condominium Act shall in the event of conflict, supersede said Declaration, Articles and By-Laws.

C. Members:

1. Qualification: The members of the Association shall consist of all of the record owners of apartments, one membership per apartment.

2. Change of Ownership: After receiving the approval of the Association, elsewhere required, change of membership in the Association shall be established by recording in the public records of Lee County, Florida, a deed or other instrument establishing a record of title to an apartment in the condominium and the delivery to the Association of a certified copy of such instrument, the owner designated by such instrument thereby becoming a member of the Association. The membership of the prior owner shall be thereby terminated.

3. Voting Rights: The members of the Association shall be entitled to cast votes for each apartment owned by them, proportionate to such members respective ownerships. The total vote of all owners is ninety nine (99). Each apartment owner shall be entitled to vote as follows:

One (1) VOTE FOR EACH UNIT

4. Designation of Voting Representative: Each unit shall have one indivisible vote. If multiple owners of a unit cannot agree on a vote, the vote shall not be counted as to the issue upon which disagreement exists. Voting certificates are not necessary

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

6. Restraint Upon Assignment of Shares in Assets: The share of a member in the funds and assets of the Association or any other share or interest in common or limited

common elements cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his apartment.

7. Limitation of Liability: The liability of any member is limited to the amounts for which he is assessed for common expenses from time to time in accordance with this Declaration.

D. Board of Directors: The affairs of the Association shall be conducted by a Board of not less than three (3) nor more than five (5) directors who shall be designated and elected in the manner provided in the By-Laws.

E. Indemnification: 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 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, or any settlement thereof, whether or not he is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interest of the Association. The forgoing rights of indemnification shall be in addition to and not exclusive of all other rights of which such director or officer may be entitled.

F. 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 for injury or damage other than the cost of maintenance and repair caused by a latent condition of the property to be maintained and repaired by the Association, or by the elements or other owners or persons.

G. By-Laws: The By-Laws of the Association shall be in the form attached as Exhibit "F"

H. Agent to Receive Service of Process: The following person who is a resident of the State of Florida, is designated as agent to receive service of process upon the Association:

Name: David G. Thompson
Address: Rt. 24 box 101-A
Ft. Myers, Florida 33908

I. Transfer of Control: When unit owners other than the developer own fifteen percent (15%) or more of the units that will be operated ultimately by the Association, the unit owners other than the developer shall be entitled to elect not less than one-third (1/3) of the members of the board of administration of the Association. Unit owners other than the developer shall be entitled to elect not less than a majority of the members of the Board of Directors of this Association (a) three years (3) after sales by the developer have been closed of fifty percent (50%) of the units that will be operated ultimately by the Association, or (b) three months (3) after sales have been closed by the developer on ninety percent (90%) of the units that will be operated ultimately by the Association (c) When all of the units that will be operated ultimately by the Association have been completed and some of them have been sold and none of the others are being offered for sale by the developer in the ordinary course of business, or (d) when some of the units have been sold and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business, whichever shall first occur. The Developer shall be entitled to elect not less than one (1) 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.

EIGHTH – INSURANCE: The insurance, other than title insurance, which shall be carried upon the condominium property, and the property of the apartment owners shall be governed by the following provisions:

A. Authority to Purchase: All insurance policies upon the condominium property shall be purchased by the Association for the benefit of the Association, and owners, and their mortgagees, as their interests may appear, and provisions shall be made for the issuance of certificates or such mortgagee endorsements to the mortgagees of apartment owners. Such policies and endorsements thereon shall be deposited with the insurance trustee. Apartment owners may obtain insurance coverage at their own expense upon their own personal property and for their personal liability and living expense.

B. Coverage:

1. Casualty: All buildings and improvements upon the land and all personal property included in the common elements shall be insured in an amount equal to the maximum insurable replacement value, excluding foundations and excavation costs, as determined

annually by the Board of Directors of the Association. Such coverage shall afford protection against:

(a) Loss or damage by fire and other hazards covered by a standard extended coverage endorsements and

(b) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land including, but not limited to vandalism and malicious mischief.

2. Liability: Public liability in such amounts and with such coverage as shall be required by the Board of Directors of the Association, including but not limited to hired automobile and non-owned automobile coverage's, and with cross liability endorsement to cover liabilities of the apartment owners as a group to an apartment.

3. Workman's Compensation: Workman's compensation policy to meet the requirements of law

4. Other Insurance: Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

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

D. Insurance Trustee; Share of Proceeds: All insurance policies purchased by the Association shall be for the benefit of the Association and the apartment owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Lee County Bank, Fort Myers, Florida, as Trustee, or to any other bank in Florida with trust powers as may be approved by the Board of Directors of the Association, which Trustee is herein referred to as the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated herein and for the benefit of the apartment owners and their mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee:

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

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

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

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

3. Mortgagees: In the event a mortgagee endorsement has been issued as to an apartment, the share of the apartment owner shall be held in trust for the mortgagee and the apartment owner as their interests may appear; provided however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired.

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

1. Expense of the Trust: All expenses of the Insurance Trustee shall be paid or provisions made therefore.

2. 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 thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of an apartment and may be enforced by such mortgage.

3. Failure to Reconstruct or Repair: If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being payable jointly to them. This is a covenant

for the benefit of any mortgagee of an apartment and may be enforced by such mortgage.

3. Certificate: In making distribution to apartment owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association as to the names of the apartment owners and their respective shares of the distribution.

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

NINTH – RECONSTRUCTION or REPAIR AFTER CASUALTY:

A. Determination to Reconstruct or Repair: If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

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

2. Apartment Building:

(a) Partial Destruction: If the damaged improvement is an apartment building, and if any apartment in the building is found by the Board of Directors of the Association to be tenantable, the damaged improvement shall be reconstructed or repaired unless, within sixty (60) days after the casualty, it is determined by agreement in the manner elsewhere provided that the condominium shall be terminated.

(b) Total Destruction: If the damaged improvement is an apartment building, and if none of the apartments in the building are found by the Board of Directors of the Association to be tenantable, then the damaged improvement will not be reconstructed or repaired and condominium will be terminated without agreement as elsewhere provided, unless within sixty (60) days after the casualty the owners of seventy five percent (75%) of the common elements agree in writing to such reconstruction or repair.

3. Certificate: The Insurance Trustee may rely upon a certificate of the Association made by its president and secretary to determine whether or not the damaged property is to be reconstructed or repaired.

B. Plans and Specifications: Any reconstruction or repair must be substantially in accordance with plans and specifications for the original building, portions of which are attached hereto as exhibits; or if not, then according to plans and specifications approved by the Board of Directors of the Association, and if the damaged property is an apartment building, by the owners of all damaged apartments therein which approvals shall not be unreasonably withheld.

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

D. Estimate of Costs: Immediately after a determination 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.

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

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

1. Association: If the total of assessments made by the Association in order to provide funds for payment of costs of reconstruction and repair which is the responsibility of the Association is more than \$50,000.00, then the sums paid upon such assessment shall be deposited by the Association with the Insurance Trustee. In all other cases the Association shall hold the sums paid upon such assessments and disburse the same in payment of the costs of reconstruction and repair.

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

(a) Apartment Owner: The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with an apartment owner or if there is a mortgagee endorsement as to such apartment, then to the apartment owner and the mortgagee jointly, who may use such proceeds as they may be advised.

(b) Association – Lesser Damage: If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than \$50,000.00 then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request to the Insurance Trustee by a mortgagee which is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the construction and repair of major damage.

(c) Association – Major Damage: If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than \$50,000.00 then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association and upon approval of an engineer qualified to practice in Florida and employed by the Association to supervise the work.

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

(e) Certificate: Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by apartment owners upon assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether disbursements from the construction fund are to be upon the order of the Association or upon approval of an engineer or otherwise, nor whether a disbursement is to be made from the construction fund nor to determine the payee nor the amount to be paid, nor to determine whether surplus funds to be distributed are less than the assessments paid by owners. Instead, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to any or all of such matters and stating that the sums to be paid are due and properly payable and stating the name of the payee and the amount to be paid; provided that when a mortgagee is herein required to be named as payee, the Insurance Trustee shall also name the mortgagee as payee, and further provided that when the Association, or mortgagee which is the beneficiary of an insurance policy the proceeds of which are included in the construction fund, so requires the approval of an engineer named by the Association shall be first obtained by the Association.

TENTH – USE RESTRICTIONS: The use of the property of the condominium shall be in accordance with the following provisions so long as the condominium exists upon the land.

A. Apartments: Each of the apartments shall be occupied by a single family, its servants and guests, as a residence and for no other purpose, except as reserved to developer. No apartment may be divided or subdivided into a smaller unit, nor any portion sold or otherwise transferred; without first amending this Declaration to show the changes in the apartments to be effected thereby.

B. Common Elements: The common elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the apartments.

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 property by its residents. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish, refuses or garbage allowed to accumulate nor any fire hazard allowed to exist. No apartment owner shall permit any use of his apartment or make any use of common elements, which will 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 nor 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, which require maintenance, modification, or repair of the condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned.

E. Leasing: Apartments may be leased in accordance with rules and regulations from time to time adopted by the Board of Directors of the Association.

F. Regulations: Reasonable regulations concerning the condominium property may be made and amended from time to time by the Board of Directors of the Association; provided however, that all such regulations and amendments thereto shall be approved by an affirmative vote of not less than two-thirds (2/3) of the voting interests present, in person or by proxy, and voting at a duly noticed meeting of the membership. Members present at meetings considering such regulations or amendments thereto may express their approval in writing. Copies of such regulations and amendments thereto shall be furnished by the Association to all apartment owners and residents of the condominium upon request.

G. Use of Common Area: In addition to such regulations that may be from time to time duly adopted with respect to common areas, the following restrictions shall be applicable thereto:

1. No part of the condominium property, including assigned parking spaces, shall be used for the storage of travel trailers, utility trailers, boats or boat trailers without written approval of the Board of Directors of the Association. Any such vehicles remaining on the premises for longer than forty-eight (48) hours shall be deemed storage as prohibited hereunder.
2. All walkways, veranda and passageways used or set aside for pedestrian travel shall be kept clear at all times of chairs, rafts, tables or obstacles of any type.
3. No railing shall be used for the draping and drying of towels, swim suits, clothing or similar articles thereby casting an unsightly condition.
4. No Motorcycles and no trucks in excess of one and one-half (1½) ton shall be permitted to occupy parking spaces on condominium property.

H. Proviso: Provided however, that until developers have completed and sold all of the existing apartments of the condominium, neither the apartment owners nor the Association nor the use of the condominium property shall interfere with the completion of the contemplated improvements and the sales of the apartments. Developers may make such use of the unsold units and common areas as may facilitate such completion and sales, including but not limited to maintenance of a sales office, the showing of the property and display of signs.

ELEVENTH – MAINTENANCE OF COMMUNITY INTERESTS: In order to maintain a community of congenial residents and thus protect the value of the apartments, the transfer of apartments shall be subject to the following provisions so long as the condominium exists and any of the apartment buildings in useful condition exist upon the land, which provisions each owner covenants and observes.

A. Transfers Subject to Approval:

1. Sale: No apartment owner may dispose of an apartment or any interest therein by sale without approval of the Association except by sale to an existing apartment owner.
2. Lease: No apartment owner may lease, except in accordance with rules and regulations from time to time adopted by the Board of Directors of the Association. Leases in excess of one (1) year must be expressly approved by said Board of Directors.
3. Gift: If any apartment owner shall acquire his title by gift, the continuance of his ownership of his apartment shall be subject to the approval of the Association.
4. Devise or Inheritance: If any apartment owner shall acquire his apartment by devise or inheritance, the continuance of his ownership of his apartment shall be subject to the approval of the Association.

5. Other Transfers: If any apartment owner shall acquire his title by any manner not heretofore considered in the forgoing subsections, the continuance of his ownership of his apartment shall be subject to the approval of the Association.

6. Ownership by Partnerships, Limited Liability Companies, Trusts, Corporations, or other Artificial Entities: An apartment may be owned in trust, or by a partnership, limited liability company, corporation, or other entity which is not a natural person, if approved in the manner elsewhere herein. Further, in addition to the conditions of approval described elsewhere herein, any transaction which proposes to transfer interest in an apartment to a trust, partnership, limited liability company, corporation, or other entity which is not a natural person, must also be accompanied with a personal guarantee executed by a natural person approved by the Association. This guarantee shall provide that the person executing such guarantee will be jointly and severally liable for all assessments, charges, or other monetary obligations which are attributable to the subject apartment. The Association may promulgate a form guarantee. The intent of this provision is to allow flexibility in estate, financial, or tax planning, and not to create circumstances in which ownership may be structured to avoid assessment liability or where the apartment may be used as a short-term or transient accommodations for several entities, individuals or families as a time share, a shared unit, fractional ownership, or used as guest accommodations for employees, customers, or guests of apartments owned by business entities, religious, or charitable organizations, and the like. The approval of a partnership, trustee, or corporation, limited liability company, or other entity as an owner shall be conditioned upon designation by the owner of one natural person to be the "Primary Occupant." The use of the apartment by other persons shall be as if the Primary Occupant were the actual owner. The Primary Occupant shall be the person entitled to vote on behalf of the apartment, and exercise rights of membership. Any change in this Primary Occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of the Condominium Documents. No more than one change in designation of Primary Occupant will be approved in any twelve (12) month period.

B. Approval by Association: The approval of the Association, which is required for the transfer of ownership of apartments shall be obtained in the following manner:

1. Notice to Association:

(a) Sale: An apartment owner intending to make a bonafide sale of his apartment or any interest therein shall give to the Association notice of such intention, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as the Association may reasonably require. Such notice, at the apartment owner's option, may include a demand by the apartment owner that the Association furnish a purchaser 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.

(b) Lease: Any apartment owner intending to make a bonafide lease of his apartment or any interest therein shall give to the Association notice of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as the Association may reasonably require, and a copy of the lease, if the lease period is longer than one (1) year.

(c) Gift; Devise or Inheritance; Other Transfers: an apartment owner who has obtained his title by gift, devise or inheritance, or by any other manner not heretofore considered, shall give to the Association notice of the acquiring of his title, together with such information concerning the apartment owner as the Association may reasonably require, a certified copy of the instrument evidencing the owner's title.

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

2. Certificate of Approval:

(a) Sale: If the proposed transaction is a sale, then within thirty (30) days after receipt of such notice and information the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the President and Secretary of the

Association in recordable form and shall be delivered to the purchaser and shall be recorded in the public records of Lee County, Florida.

(b) Lease: If the proposed transaction is a lease for a period of time longer than one (1) year, then within thirty (30) days after receipt of such notice and information the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the President and Secretary of the Association in recordable form and shall be delivered to the lessee.

(c) Gift; Devise or Inheritance; Other Transfers: If the apartment owner giving notice has acquired his title by gift, devise or inheritance or in any other manner, then within thirty (30) days after receipt of such notice and information the Association must either approve or disapprove the continuance of the apartment owner's ownership of his apartment. If approved, the approval shall be stated in a certificate executed by the President and Secretary of the Association in recordable form and shall be delivered to the apartment owner and shall be recorded in the public records of Lee County, Florida.

(d) Fee: No fee shall be charged in connection with the transfer, sale or approval process in excess of expenditures reasonably required for said transfer, sale or approval and this expense shall not exceed \$50.00. No fee shall be charged in connection with the approval process for the renewal or extension of a lease.

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

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

(a) 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 the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the apartment and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

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

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

(d) If the Association shall fail to provide a purchaser upon the demand of the apartment owner in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, the proposed transaction shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided.

2. Lease: If the proposed transaction is a lease longer than one (1) year, the apartment owner shall be advised of the disapproval in writing and the lease shall not be made. Shorter leases shall be invalid if not in accordance with rules and regulations adopted by the Board of Directors of the Association.

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

(a) 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, and in the absence of agreement as to price, it shall be determined by arbitration in accordance with the then existing rules of the

American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the apartment; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

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

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

(d) If the Association shall fail to provide a purchaser as herein required, 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.

D. Mortgage: No apartment owner may mortgage his apartment nor any interest therein without the approval of the Association except to a bank, life insurance company, a federal savings and loan association, a real estate investment trust, an institutional mortgage banker or institutional mortgage broker. The approval of any other mortgagee may be upon conditions determined by the Association or may be arbitrarily withheld.

E. Exceptions: The foregoing provisions of this section entitled "Maintenance of Community Interests" shall not apply to a transfer to or purchase by an institutional mortgagee, which acquires its title as the result of owning a mortgage upon the apartment concerned, and this shall be so whether the title is acquired by deed from the mortgagor or his successor in title or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by an institutional mortgagee which so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to an apartment at a duly advertised public sale with open bidding which is provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale.

F. Unauthorized Transactions: Any sale, mortgage or lease which is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

G. Notice of Lien or Suit:

1. Notice of Lien: An apartment owner shall give notice to the Association of every lien upon his apartment other than for permitted mortgages, taxes and special assessments within five (5) days after the attaching of the lien.

2. Notice of Suit: An apartment owner shall give notice to the Association of every suit or other proceeding which may affect the title to his apartment, such notices shall be given within five (5) days after the apartment owner receives knowledge thereof.

3. Failure to comply with this subsection concerning liens will not affect the validity of any judicial sale.

TWELFTH – COMPLIANCE AND DEFAULT: Each apartment owner shall be governed by and shall comply with the terms of the Declaration of Condominium, by-laws and regulations adopted pursuant thereto and said documents and regulations as they may be amended from time to time. Failure of apartment owner to comply therewith shall entitle the Association or other apartment owners to the following relief in addition to the remedies provided by the Condominium Act.

A. Negligence: An apartment 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, or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of an apartment or its appurtenances, or of the common elements.

B. Costs and Attorney's Fees: In any proceeding arising because of an alleged failure of an apartment owner to comply with the terms of the Declaration, By-Laws and Regulations adopted pursuant thereto, and said documents and regulations as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney fees as may be awarded by the court.

C. No Waiver of Rights: The failure of the Association or any apartment owner to enforce any covenant, restriction or other provision of the Condominium Act or this Declaration, shall not constitute a waiver of the right to do so thereafter.

THIRTEENTH – AMENDMENTS: This Declaration of Condominium and the By-Laws of Davis Lake Condominium Association Inc., may be amended in the following manner as well as in the manner elsewhere provided.

A. **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.

B. **Resolution:** A resolution adopting the proposed amendment may be proposed by either the Board of Directors of the Association or by the members of the Association. Directors and members not present at the meetings considering the amendment may express their approval in writing or by proxy. Except as elsewhere provided, such approvals must be either by: an affirmative vote of two-thirds of the votes present, in person or by proxy, and voting at a duly noticed meeting where a quorum is present.

C. **Agreement:** In the alternative, an amendment may be made by an agreement signed and acknowledged by all of the record owners of apartments in the condominium in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the Public Records of Lee County, Florida.

D. **Proviso:** Provided however, that no amendment shall discriminate against any apartment owner or against any apartment or class or group of apartments unless the apartment owners so affected shall consent; and no amendment shall change any apartment nor its share in the common elements appurtenant to it, nor increase the owner's share of the common expenses, unless the record owner of the apartment concerned and all record owners of mortgages thereon shall join in the execution of the amendment. Neither shall an amendment of this Declaration 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 apartments in the condominium shall join in the execution of the amendment.

E. **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 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.

FOURTEENTH – TERMINATION: The condominium may be terminated in the following manner in addition to the manner provided by the Condominium Act.

A. **Destruction:** In the event it is determined in the manner elsewhere provided that an apartment building or buildings shall not be reconstructed because of major damage, the condominium plan of ownership will be thereby terminated without agreement.

B. **Agreement:** The condominium may be terminated at any time by the approval in writing of all of the owners of the condominium, and by all record owners of mortgages upon apartments therein owned by a bank, life insurance company or a federal savings and loan association. If the proposed termination is submitted to a meeting of the members of the Association, the notice of which meeting gives notice of the proposed termination, and if the approval of the owners of not less than seventy-five (75%) percent of the common elements, and of the record owners of all mortgages upon apartments in the condominium, owned by a bank, life insurance company or a federal savings and loan association, 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 apartments of the other owners for the period ending on the 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 registered mail to each of the record owners of the apartments to be purchased of an agreement to purchase signed by the record owners of apartments who will participate in the business. Such agreement shall indicate which apartments will be purchased by each participating owner and shall agree to purchase all of the apartments owned by owners not approving the termination, but the agreement shall effect a separate contract between each seller and his purchaser.

2. **Price:** The sale price of each apartment 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 apartment; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

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.

C. 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 affecting the termination. Which certificate shall become effective upon being recorded in the public records of Lee County, Florida.

D. Share of Owners after Termination: After termination of the condominium the apartment owners shall own the condominium property and all assets of the Association as tenants in common in undivided share, and their respective mortgagees and lien holders shall have mortgages and liens upon the respective undivided shares of the apartment owners. Such undivided shares of the apartment owners shall be the same as the undivided shares in the common elements appurtenant to the owner's apartments prior to the termination.

E. Amendment: This section concerning termination cannot be amended without consent of all apartment owners and of all owners of mortgages required to approve termination by agreement.

FIFTEENTH – SEVERABILITY: The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase of word, or other provision of this Declaration of Condominium and the By-Laws and Regulations of the Association shall not affect the validity of the remaining portions thereof.

IN WITNESS THEREOF, The developer has executed this Declaration the day and year first above written.

OUTER ISLAND DEVELOPMENT OF FLORIDA, INC.

BY: _____
Robert R. Hollopeter
President

Attest:

David G. Thompson
Secretary

THE 100 YEAR FLOOD ELEVATION AS DETERMINED BY FEDERAL FLOOD INSURANCE RATE MAPS PLACES THIS PROPERTY IN AN AREA THAT IS SUBJECT TO FLOODING UNDER THE 100 YEAR EVENT AND THEREFORE THE PROPERTY OWNERS ARE ADVISED TO CONSULT THE COUNTY BUILDING DEPARTMENT AND CONSIDER THIS MATTER AT THE TIME OF CONSTRUCTION OR PURCHASE OF A RESIDENTIAL STRUCTURE.

STATE OF FLORIDA

COUNTY OF LEE

I HEREBY CERTIFY that on this 1st day of February, A.D. 1983, before me personally appeared ROBERT R. HOLLOPETER and DAVID G. THOMPSON, President and Secretary respectively of OUTER ISLAND DEVELOPMENT OF FLORIDA, INC., a Florida Corporation, to me known to be the persons described in and who executed the forgoing Declaration of Condominium and acknowledged the execution thereof to be their free acts and deeds as such officer, for the uses and purposes therein mentioned; and that he affixed thereto the official seal of said Corporation, and the said instrument is the act and deed of said Corporation.

WITNESS my signature and official seal at Fort Myers in the County of Lee, and the State of Florida, the day and year last aforesaid.

NOTARY PUBLIC
(Signed by Murray Burns)

MY COMMISSION EXPIRES:

*Notary Public, State of Florida at large
My Commission expires June 9, 1985*

FOR GOOD AND VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, DAVIS LAKE CONDOMINIUM ASSOCIATION, INC., a Florida Corporation not for profit, hereby agrees to accept all the benefits and all of the duties, responsibilities, obligations and burdens imposed on it by the provisions of Declaration.

In WITNESS WHEREOF, DAVIS LAKE CONDOMINIUM ASSOCIATION INC. has this 4th day of February, 1983, caused these presents to be signed in its name by its President and attested by its Secretary at Fort Myers, Florida.

DAVIS LAKE CONDOMINIUM ASSOCIATION INC.

BY: _____.(Signed by Robert R. Hollopeter)

Attest:

By: _____.(Signed by Dorothea J. Hollopeter)