

DECLARATION OF CONDOMINIUM

OF

TOWNHOMES OF VILLAS BY THE SEA, A CONDOMINIUM

**Sandy Crawford**

Clerk Of Courts, Brevard County

#Pgs: 77    #Names: 2  
Trust: 39.00    Rec: 309.00    Serv: 0.00  
Deed: 0.00    Excise: 0.00  
Mtg: 0.00    Int Tax: 0.00



CFN:2000082949    05-05-2000 04:18 pm

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**Developer:**

Villas By the Sea Development, Inc.  
8085 N. Atlantic Avenue  
Cape Canaveral, FL 32920

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DECLARATION OF CONDOMINIUM

OF

TOWNHOMES OF VILLAS BY THE SEA, A CONDOMINIUM

Villas By the Sea Development, Inc., ("Developer") hereby declares and establishes this Declaration of Condominium ("Declaration") as and for the plan of condominium ownership for Townhomes of Villas By the Sea, a Condominium ("Condominium"), being the property and improvements hereafter described.

All the restrictions, reservations, covenants, provisions, conditions and easements contained herein shall constitute covenants running with the land or equitable servitude upon the land, as the case may be, and shall run perpetually unless terminated as provided herein, shall be binding upon the Developer, its successors and assigns and all persons, jointly and severally, subsequently owning property in the Condominium and shall inure to and bind the respective heirs, personal representatives, successors and assigns of such persons. In consideration of acceptance of a conveyance, grant, devise, lease or mortgage, all such grantees, devisees, lessees, mortgagees and purchasers at any sale upon foreclosure, and all parties claiming by, through or under such persons, agree to be bound by and subject to the provisions hereof. Both the burdens imposed and the benefits shall run with each Unit, as hereinafter defined, located in the Condominium.

I

ESTABLISHMENT OF CONDOMINIUM

Developer is the owner and holder of the fee simple title to that certain property (hereinafter "Property") situate in the County of Brevard, State of Florida, which is more particularly described as follows, to-wit:

(SEE LEGAL DESCRIPTION OF PROPERTY, SET FORTH ON SHEET 2 OF EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF)

Developer does hereby submit the Property, together with all improvements located or to be located thereon and therein, to condominium ownership and hereby declares the same to be a

residential condominium known as identified as "Townhomes of Villas By the Sea, a Condominium".

II

DEFINITIONS



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The terms used in this Declaration and in all exhibits thereto shall have the same meaning as stated in Chapter 718, Fla. Stat. (1997), as amended (hereinafter "Condominium Act"), unless other definitions are specifically set forth:

A) "Articles" shall mean the Articles of Incorporation of Townhomes of Villas By the Sea Condominium Association, Inc., a true copy of which is attached hereto as Exhibit "B" and by reference made a part hereof.

B) "Association" shall mean Townhomes of Villas By the Sea Condominium Association, Inc.

C) "Board" shall mean of the Board of Directors of the Association.

D) "Bylaws" shall mean the Bylaws of the Association, a true copy of which is attached hereto as Exhibit "C" and by reference made a part hereof.

E) "Common Expenses" shall mean the expenses of the operation, maintenance, repair or replacement of the common elements, as hereinafter defined; costs of carrying out the powers and duties of the Association; and any other expenses designated as Common Expenses by the Condominium Act, this Declaration or the Bylaws.

F) "Common Elements" shall mean all of the real property, improvements and facilities of the Condominium other than the Units and shall include easements through Units for conduits, pipes, ducts, plumbing, wiring and other facilities for the furnishings for utility and other services to Units and Common Elements, and easements of support in every portion of a Unit which contributes to the support of improvements and shall further include all personal property held and maintained for the joint use and enjoyment of all of the Unit Owners, as hereinafter defined.

G) "Common Surplus" shall mean all funds of the Association, including, but not limited to, assessments, rents, profits and

revenues from any source whatsoever, even the amount of the Common Expenses.

H) "Institutional Lender" shall mean any holder, insurer or guarantor of a first mortgage secured by any Unit, other than natural persons.

I) "Limited Common Elements" shall mean that portion of the Common Elements, if any, the use of which has been reserved to a certain Unit or Units to the exclusion of all other Units, as designated on Sheets 4 through 13 of Exhibit "A". Where the context allows, any reference to Common Elements contained in this Declaration shall be construed to include Limited Common Elements.

J) "Unit" shall mean a private dwelling in the Condominium and which is subject to exclusive ownership, as delineated in Article III below.

K) "Unit Owner" shall mean an owner of a Unit in the Condominium.

L) "Regulations" or "Rules and Regulations" shall mean and comprise those rules and regulations respecting the use of Units, Common Elements or Limited Common Elements, which have been adopted by the Board, from time to time.

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

### III

#### SURVEY AND DESCRIPTION OF IMPROVEMENTS; UNIT BOUNDARIES

Exhibit "A", attached hereto and by reference made a part hereof, is a survey of the Property and floor plans and plot plans of the improvements constituting the Condominium, identifying the Common Elements, Limited Common Elements and Units, and showing their respective locations and approximate dimensions. Units shall be identified by their specific numerical designation in Exhibit "A", and no Unit shall bear the same designation as any other Unit. The perimetrical boundaries of a Unit shall be the planes of the undecorated, unfinished, interior surfaces of the walls bounding the Unit, extended to intersections with each other and with the upper and lower boundaries of said Unit. The upper boundary of





said Unit shall be the horizontal plane of the undecorated, unfinished ceiling. The lower boundary of said Unit shall be the horizontal plane of the undecorated, unfinished floor. The Developer deserves the right to make minor physical modifications to units and common elements including modifications necessary to vent fireplaces should the same be installed.

## IV

AVAILABILITY OF ASSOCIATION RECORDS

The Association shall make available to all Unit Owners and to any Institutional Lender current copies of this Declaration, the Articles, Bylaws and Regulations, if any, and the books, records, insurance policies and financial statements of the Association. Said documents and records shall be made available for inspection upon request during normal business hours. Any institutional mortgagee shall be entitled, upon written request, to a copy of the Associations' financial statement for the immediately preceding fiscal year.

## V

APPURTENANT INTEREST IN COMMON  
ELEMENTS AND COMMON SURPLUS; SHARE OF COMMON EXPENSES

A) There shall be appurtenant to each Unit a one-twentyeighth (1/28) interest in the Common Elements and Common Surplus.

B) The Common Expenses shall be shared in the same proportion (1/28) as each Unit Owner's interest in the Common Elements and Common Surplus.

## VI

RESTRICTION AGAINST FURTHER SUBDIVISION OF UNITS;  
SEPARATE CONVEYANCE OF APPURTENANT COMMON ELEMENTS, ETC.

No Unit may be divided or subdivided into more than one Unit, nor shall any Unit or portion be added to or incorporated into any other Unit. The undivided interest in the Common Elements declared to be appurtenant to each Unit shall not be conveyed, devised or encumbered separately from said Unit and the undivided interest in Common Elements appurtenant to each Unit shall be deemed conveyed, devised or encumbered with the Unit even though such undivided

interest is not expressly mentioned or described in the instrument conveying, devising or encumbering such Unit. Any conveyance, mortgage or other instrument which purports to effect the conveyance, devise or encumbrance of, or which purports to grant any right, interest or lien in, to or upon a Unit, shall be null, void and of no effect insofar as the same purports to effect any interest in a Unit and its appurtenant undivided interest in Common Elements, unless the same purports to convey, devise or encumber the entire Unit. Any instrument conveying, devising or encumbering any Unit, whether by the numerical designation assigned thereto in Exhibit "A" or by legal description, shall, without limitation or exception, be deemed and construed to affect the entire Unit and its description in any instrument conveying, devising or encumbering any Unit and describing the Unit by its numerical designation and identifying this Declaration shall be deemed to include any and all properly-recorded amendments to this Declaration, the Articles and Bylaws and it shall not be necessary for such description to refer specifically or generally to any such amendment or amendments. Nothing contained herein shall be construed as limited or preventing ownership of any Unit and its appurtenant undivided interest in the Common Elements by more than one person or entity as tenants in common, joint tenants or tenants by the entirety.

## VII

### PERPETUAL NON-EXCLUSIVE EASEMENT IN COMMON ELEMENTS

The Common Elements shall be and the same are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all Unit Owners for their use and the use of their tenants, licensees and invitees for all proper and normal purposes, including ingress and egress, and for the furnishing of services and facilities for which the same are reasonably intended. Notwithstanding any provision in this Article, the Board shall have the right to establish regulations concerning the use of Units, Common Elements and Limited Common Elements.



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VIII

EASEMENT FOR UNINTENTIONAL AND  
NON-NEGLIGENT ENCROACHMENTS

In the event any Unit shall encroach upon any part of the Common Elements for any reason not caused by the purposeful or negligent act of any Unit Owner or any agent of a Unit Owner, then an easement shall exist for the continuance of such encroachment upon the Common Elements by such Unit for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Elements shall encroach upon any Unit, then an easement shall exist for the continuance of such encroachment of the Common Elements into any Unit for so long as such encroachment shall naturally exist.

IX

RESTRAINT UPON SEPARATION AND PARTITION  
OF COMMON ELEMENTS

Recognizing that the proper use of a Unit by any Unit Owner is dependent upon the use and enjoyment of the Common Elements in common with all Unit Owners and that it is in the interest of all Unit Owners that the ownership of the Common Elements be retained in common by said Unit Owners, it is declared that any appurtenant undivided interest in the Common Elements shall remain undivided and no Unit Owner shall bring or have any right to bring any action for partition or division, unless the condominium regime is terminated as provided hereinbelow.

X

EASEMENT FOR AIR SPACE

Each Unit Owner shall have an exclusive easement for the use of the air space occupied by said Unit as it exists at any particular time and as said Unit may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated by the Unit from time to time.



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ADMINISTRATION OF THE CONDOMINIUM  
BY THE ASSOCIATION; VOTING AND MEMBERSHIP

The Association has been organized to provide efficiently and effectively for the maintenance, management and operation of the Condominium. The Association shall administer the operation and management of the Condominium and undertake and perform all acts and duties incident thereto, in accordance with the terms of its Articles and Bylaws. Every Unit Owner shall automatically become a member of the Association upon acquisition of an ownership interest in a Unit; interest in a Unit and the membership of any Unit Owner shall terminate automatically upon such Unit Owner's divestiture of such fee ownership interest in such Unit, regardless of the means by which such fee ownership may be divested, except that nothing herein shall be construed as terminating the membership of any party who may own two or more Units, so long as such party shall retain a fee ownership interest in any Unit. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Unit shall be entitled, simply by virtue of such lien, mortgage or other encumbrance, to membership in the Association. On all matters upon which the Unit Owners shall be entitled to vote, the voting rights of such Unit Owners shall be determined and exercised in the manner provided in the Articles and Bylaws. However, notwithstanding anything to the contrary provided herein or in the Bylaws, during the time any Unit is owned by the Association, the Association shall not be entitled to cast the vote of said Unit.

When Unit Owners other than the Developer own 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 no less than one-third of the members of the Board. Unit Owners other than the Developer are entitled to elect not less than a majority of the members of the Board:

(a) Three years after 50 percent of the Units that will be operated ultimately by the Association have been conveyed to



purchasers;

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

(c) 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;

(d) When some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or

(e) Seven years after recordation of the Declaration.

The Developer is entitled to elect at least one member of the Board as long as the Developer holds for sale in the ordinary course of business at least 5 percent of the units in the Condominium operated by the Association. Following the time the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer-owned units in the same manner as any other unit owner except for the purposes of reacquiring control of the Association or selecting the majority members of the Board.

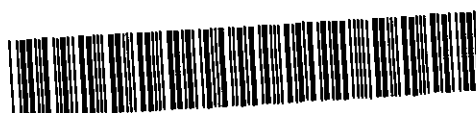
The foregoing provisions shall control over any inconsistent provisions in this Declaration or its exhibits.

## XII

### CONDOMINIUM USE RESTRICTIONS

All Unit Owners, in addition to any other obligation, duty, right and limitation imposed upon them by this Declaration, the Articles or the Bylaws, shall be subject to and agree to abide by the following restrictive covenants, which shall be applicable to such owners, and to their tenants, invitees and licensees:

A) No Unit shall be used for any purpose other than as and



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for a single family residence.

B) No person shall cause or allow any signs or advertising of any nature to be posted or affixed to any of the Common Elements or the exterior of any Unit, or in any window or other place visible from the exterior of a Unit, except as approved by a majority of the Board, which shall regulate same to achieve consistency and maintain the appearance of the Condominium.

C) No person shall in any way deface or mar or make any alteration, repair, replacement or change, in or to the Common Elements or Limited Common Elements, except as permitted in writing by the Board.

D) Except as otherwise provided herein, all Common Elements shall be kept free for their intended use by the Unit Owners in common and no Common Elements other than Limited Common Elements shall be used exclusively by any individual Unit Owners, either on a temporary or permanent basis.

E) Parking shall be open to the Unit Owners and their tenants, invitees and licensees, provided, however, that no vehicle may park in any place other than designated parking areas at any time, and only vehicles bearing a valid handicap permit may park in handicap parking.

F) All garbage or trash shall be disposed of in the on-site dumpsters or other manner provided by the Board. Any expense of garbage disposal, in excess of the regular monthly charge, caused by an individual Unit Owner shall be collectible as an assessment from that Unit Owner.

G) All persons shall desist from the use of electronic equipment or sources of noise or vibration which may tend to disturb residents of Units in the Condominium.

H) No trucks (other than those of a type, if any, expressly permitted by the Board) or commercial vehicles, or campers, motorhomes, horse trailers or trailers of every other description, recreational vehicles, watercraft, boats, boat or watercraft trailers, or vans (other than minivans) shall be permitted to be parked or to be stored at any place on the Common Elements, except within fully-enclosed garages. For purposes of this Section,



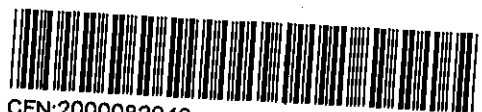
"commercial vehicles" shall mean those which are not designed and used for customary, personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether it is a commercial vehicle, but the presence of commercial-type lettering or graphics shall cause a presumption that the vehicle is a "commercial vehicle". The prohibitions on parking and storage contained in this Section shall not apply to brief temporary parking of trucks and commercial vehicles, such as for construction use or providing pick-up and delivery and other commercial services; nor to any vehicles of the Developer or its contractors, subcontractors and agents which are engaged in activity relating to construction, marketing, or maintenance of units.

All Owners and other occupants of Units are advised to consult with the Association prior to purchasing, or bringing onto the Common Elements, any type of vehicle to determine whether it will be permitted.

Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein or in the rules and regulations now or hereafter adopted may be towed by the Association at the sole expense of the owner of such vehicle if such vehicle remains in violation for a period of 24 hours from the time a notice of violation is placed on the vehicle. The Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind. For purposes of this Article, "vehicle" shall also mean campers, watercraft, RV's, boats and trailers. An affidavit of the person posting the aforesaid notice stating that it was properly posted be conclusive evidence of proper posting.

I) No vehicles shall be stored for extended periods (exceeding 48 hours) on the Condominium property.

J) All Owners shall use at least one (1) space in their respective garages for the parking of a vehicle. Garage doors



shall be kept closed at all times except when in actual use and during reasonably limited periods when the garage is being cleaned or other activities are being conducted therefrom which reasonably require the doors to be left open.

K) The windows or other exterior glassed areas of any Unit may only be covered with shutters, louvers, blinds, curtains, drapes and other objects specifically designated as window coverings, except that the same may also be used to display signs to the extent permitted by the Board.

L) No more than one (1) domestic pet may be maintained in any Unit. "Domestic pet" shall mean only a domesticated breed of dog having a weight not exceeding twenty (20) pounds, or a domesticated breed of cat having a weight no exceeding twenty (20) pounds. Any such domestic pet must be registered with the Board at the time it is brought onto the property. Fish in aquariums may also be kept but except as provided herein no other or further animals or pets, whether caged or not, may be maintained in the Condominium. Pet refuse shall not be left on the Common Elements and shall be removed by the owner of the pet.

M) No unit may be leased for any period less than one (1) month. All owners shall be responsible for any violations of this Declaration by their tenants.

N) No Owner shall make or permit any opening to be made in any exterior wall (except as such opening is initially installed).

O) Nothing shall be done or maintained in or about any Unit which may be or become an annoyance or nuisance to the neighborhood. Any activity in or about a Unit which interferes with television, cable or radio reception in another Unit shall be deemed a nuisance and a prohibited activity. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Board, which shall render a decision in writing, which decision shall be dispositive of such dispute or question.

P) Except as may be approved or used by the Developer during construction and/or sales periods, no structure of a temporary character shall be permitted on the common elements at any time or



used at any time as a residence, either temporarily or permanently.

Q) No gas tank, gas container or gas cylinder shall be permitted to be placed on or about the outside of any Unit or on or about any ancillary building, except for one (1) gas cylinder (not to exceed 20 lbs. capacity) connected to a barbecue grill.

R) No obstruction to visibility at street intersections or Common Area intersections shall be permitted; provided that the Association shall not be liable in any manner to any person or entity, including, Owners for any damages, injuries or deaths arising from any violation of this Section.

S) No object or decoration or alteration or structure or improvement of any nature (including, but not limited to, pools, screen enclosures, patios [or patio extensions], hedges, walls, buildings, fences, landscaping [other than as placed by the Developer], exterior paint or finish, statuary, play objects or structures, awnings, shutters, hurricane protection, sheds, basketball hoops, mobile or fixed basketball stands or backboards, decorative plaques or accessories, birdhouses, other pet houses, swales, asphaltting, sidewalk/driveway surfaces or treatments, or other improvements or changes of any kind visible from the exterior of the Unit, whether or not permanently affixed to the land or to other improvements) shall be erected, placed or altered on the exterior of any Unit until a plan showing the location of the alteration or object or structure or improvement shall be approved by the Board, and all necessary governmental permits are obtained. All plans and specifications of any proposed alteration or object or decoration or structure or improvement, including detail of materials and colors, shall be submitted with an application for approval. Conversions of garages or carports to living space or other uses are hereby prohibited, even though same are not readily apparent from the exteriors of applicable Units. The proposed object or decoration or alteration or structure or improvement of any nature, shall be erected, placed or altered upon the premises only in accordance with the plans so approved and applicable governmental permits and requirements. Refusal of approval by the Board of plans, specifications or plot plans, or any of them, may



be based on any ground, including but not limited to purely aesthetic grounds, which in the sole and uncontrolled discretion of the Board is deemed sufficient. Any change in the exterior appearance of any building, wall, fence or other structure or improvements, and any change in the nature or appearance of the landscaping, shall be deemed an alteration requiring approval. The Board shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this paragraph. The Board shall act on submissions to it within forty-five (45) days after receipt of a completed application. An application shall not be deemed "complete" until all documentation regarding the application requested by the Board has been received. Landscaping shall be deemed an "alteration" for purposes hereof.

In the event that any unapproved object or alteration or structure or improvement or landscaping occurs in violation of this Declaration, the Association shall have, inter alia, the right to remove or otherwise remedy the applicable violation in question. The costs of such remedial work shall be a special assessment against the Unit, which assessment shall be payable upon demand and secured by the lien for assessments provided for in this Declaration. The Association shall also have the right to seek injunctive relief and damages, including attorney's fees.

The approval of any proposed plan by the Board shall not constitute a warranty or approval as to same and neither the Association nor any member or representative of the Board shall be liable for the safety, soundness, workmanship, materials or usefulness for any purpose of any such improvement or object or structure or alteration nor as to its compliance with governmental or industry codes or standards. By submitting a request for the approval of any object or alteration or structure or improvement, the requesting Owner shall be deemed to have agreed to hold harmless and indemnify the aforesaid members and representatives, and the Association generally, from and for any loss, claim or damages connected with the matter for which approval is sought.

The Board may, but shall not be required to, require that any request for its approval be accompanied by the written consent of



the Owners of the Units immediately adjoining the Unit proposed to be altered as described in the request.

T) With the exception of Paragraphs XIII(H), (L), and (M), the provisions of this Article XII shall not be applicable to the Developer or any successor Developer, but shall apply to any Owners other than the Developer.

U) No clothing, laundry or wash shall be aired or dried on any portion of the condominium property.

V) With regard to satellite dish receiving devices which are less than one meter in diameter; Multipoint Distribution System ("MDS") receiving devices less than one meter in diameter; and off-the-air television antennas, the following shall apply only in the event the FCC determines that the condominium Board cannot otherwise restrict same under the foregoing provisions of Section S:

(a) No owner may maintain on site more than one such receiving device of each kind (for example, two MDS receiving devices would not be permitted, but an MDS device and a less than one meter satellite dish shall be permitted).

(b) An owner intending to have such a receiving device installed shall provide notice to the Association in advance of installation, and the notice shall designate the type of antenna to be installed, the name, address and telephone number of the installer, the proposed site of the installation, and whether the proposed location is the sole location allowing the owner to receive an "acceptable quality signal" as defined under FCC regulations.

(c) Subject always to the requirement that the owner be provided an "acceptable quality signal", the Association may designate to the installer a site on the common elements which, in the Association's determination, reduces the aesthetic impact of the antenna installation. Subject always to the owner's right to receive an "acceptable quality signal", the following order of choice as to location shall apply: 1) Interior installation (i.e. attic); 2) Back or rear (rearward of the Unit) and away from any side street; 3) side



yard, rearward of the front plane of the Unit, and on a side not exposed to a side street; 4) side of a Unit exposed to a side street; 5) front (forward of the front plane of the Unit).

(d) For each given installation, the Board may direct the owner to camouflage or modify the installation, provided however that there is no interference with the "acceptable quality signal", and provided further that the camouflage or modification does not impose an "unreasonable expense" on the owner in light of the total value of the installation.

(e) To the extent possible, for devices described in the first sentence of this Section, within seven (7) working days after the Board's receipt of the notice from an owner as described in subsection (b) above, the Board shall respond to the owner or the owner's installer, so as to determine the locational, construction and aesthetic issues set forth above. The Board shall expedite this process where devices described in the first sentence of this Section are concerned, the intention being that any delay in installation be minimized.

(f) The Board may prohibit any mast(s) rising more than 12 feet above the top of the roofline of the residence, in each case where the Board demonstrates a documented safety concern. A documented safety concern shall appear in any case where the Board receives an opinion by a professional engineer licensed in Florida, that the installation or improvement would post an unreasonable risk of property damage or personal injury arising from any inadequacy in the design, location, materials, construction, or guying of the device or improvement.

With regard to any transmitting or receiving device other than those specifically described in the first sentence of this Section, the following provisions shall apply:

(a) The device must be camouflaged as an umbrella; the height of the installation shall not be greater than six feet above ground level; the diameter of the device shall not exceed eight feet in its greatest dimension; and the device





shall be obscured by an approved fence on all exposed sides.

(b) No such radio, television, or other transmission receiving or sending device, dish, or antennae not fitting the description set forth in the first sentence of this Section may be installed or maintained on any lot or the exterior of any structure located on any lot without approval as provided in Section S above, and the Board shall have the power to deny any such installation solely upon safety concerns, aesthetic concerns, or otherwise. Application for approval shall be in writing and shall set forth: the type of device to be installed; the name, address and telephone number of the installer; the site of the proposed installation; and a rough drawing with dimensions depicting the device to be installed.

W) Nothing in this Declaration shall be deemed to prohibit the installation of energy devices based on renewable resources (e.g., solar collector panels); provided, however, that same shall be installed only in accordance with the reasonable standards adopted from time to time by the Board. Such standards shall be reasonably calculated to maintain the aesthetic integrity of the Common Elements without making the cost of the aforesaid devices prohibitively expensive.

X) The Board of Directors of the Association shall have the right and power to grant variances from the provisions of this Article for good cause shown, as determined in the reasonable discretion of the Board. No variance granted as aforesaid shall alter, waive or impair the operation or effect of the provisions of this Article in any instance in which such variance is not granted.

Y) The Board shall have the power to enact such further rules and regulations as it deems necessary from time to time and the same shall be enforceable as if set forth herein.

#### XIII

#### RIGHT OF ENTRY INTO UNIT IN EMERGENCIES

In case of any emergency originating in or threatening any Unit, regardless of whether the Unit Owner is present at the time of such emergency, the Association shall have the right to enter such Unit for the purpose of remedying or abating the cause of such



emergency. To facilitate entry in the event of any such emergency, and for maintenance as described below, the Unit Owner, if required by the Board, shall place a functioning door key to the Owner's Unit under the control of the Association.

XIV

RIGHT OF ENTRY FOR MAINTENANCE OF COMMON ELEMENTS

Whenever it is necessary to enter any Unit for the purpose of performing extermination, or for any maintenance, alteration or repair to any portion of the Common Elements, each Unit Owner shall permit duly constituted and authorized agents or employees of the Association or independent contractors engaged by the Board to enter such Unit for such purpose, provided that such entry shall be made only at reasonable times and with reasonable notice to the affected Unit Owner.

XV

ALTERATION AND MODIFICATION OF UNITS

No Unit Owner shall permit to be made any structural or non-structural modification or alteration of a Unit without first obtaining the written consent of the Board, which consent may be withheld in the event that the Board shall determine, in its sole discretion, that such modification or alteration would adversely affect or in any manner endanger the Condominium or any part thereof. The Owner shall pay any costs including engineering certification costs required by the Association regarding review of such proposal. If the modification or alteration desired by a Unit Owner involves the alteration of any permanent interior partition, whether structural or not, the Association may permit such removal only if the proposed alteration or removal is first inspected by a licensed engineer who certifies in writing to the Association that it would in no manner adversely affect the building integrity and will not interfere with provision of utility or other services to any other Unit or common Element. No Unit Owner shall cause or permit any improvements or change to be made on or to the exterior of the Condominium, including painting or other decoration, or the installation of electrical wiring, machines or air conditioning



Units which may protrude through the walls or roof of the Condominium, or in any manner change the appearance of any external portion of the building, without first obtaining the written consent of the Board as described herein, which may be withheld on any grounds including but not limited to solely aesthetic grounds.

XVI

NOTICE TO INSTITUTIONAL LENDERS

Upon written request to the Association, stating the name and address of the Institutional lender and the Unit number or address, any Institutional Lender will be entitled to timely written notice of:

A) Any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing its mortgage.

B) Any 60-day delinquency in the payment of assessments owed by the person or persons owning any Unit on which the inquiring party holds a mortgage.

C) Any proposed action that requires the consent of a specified percentage of mortgage holders.

XVII

MAINTENANCE AND REPAIR BY UNIT OWNERS

Every Unit Owner must perform promptly all maintenance and repair work within his Unit which, if omitted, would affect the Common Elements or another Unit, and any Unit Owner failing to do so shall be responsible for any damages and liability which his failure to maintain or repair may engender. Each Unit Owner shall bear the responsibility for the maintenance, repair and replacement, as the case may be, of all air conditioning and heating equipment, compressors, ducts, chases, and the like which service the Owner's Unit. Such Unit Owner shall further be responsible and liable for the maintenance, repair, and replacement of all designated Limited Common Elements (except for drives/parking areas), and of utility fixtures within the Unit and of any and all walls, ceilings and floors, painting, furnishings, equipment and any other property within the Unit. The Unit Owner



shall also be responsible for the maintenance, repair, and replacement of all windows, doors and screens serving the Owner's Unit; however no such repair or replacement shall in any way alter the exterior appearance of the Condominium without the prior written consent of the Board, which consent may be refused on solely aesthetic grounds. Whenever the maintenance, repair and replacement of any items which the Unit Owner is obligated to maintain, replace or repair at the Owner's expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement to the extent of such coverage; provided, however, that no insurer of the Condominium shall have the right of subrogation against any Unit Owner. The Association shall have the right to recover the cost of any repairs or other unusual expense required for the maintenance of Common Elements, when occasioned by the act or omission of the Unit Owner or the Owner's tenants, invitees or licensees.

XVIII

MAINTENANCE AND REPAIR OF COMMON ELEMENTS  
BY THE ASSOCIATION

Except as otherwise provided herein the Association, at its expense, shall be responsible for the maintenance, repair and replacement of all drives, whether Limited Common Elements or not, and all of the Common Elements, including those portions thereof which contribute to the support of the building, and all conduits, ducts, plumbing, wiring and other facilities (other than air conditioning and heating equipment as provided above) located in the Common Elements for furnishing of utility and other services to the Units and said Common Elements; and, should any incidental damage be caused to any Unit by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair or replacement of any Common Elements, the Association shall repair such incidental damage at its expense.



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XIX

PERSONAL LIABILITY, UNIT OWNERS' RISK OF LOSS  
AND SEPARATE INSURANCE COVERAGE, ETC.

A Unit Owner may, at his own expense, obtain insurance coverage for loss of or damage to any part of his Unit, including wall coverings, furnishings, equipment or other property belonging to such Unit Owner, at his own expense and option, obtain insurance coverage for personal liability for injury to the person or property of another occurring within such Unit Owner's Unit or upon the Common Elements. Risk of loss or damage to any furnishings, equipment or other property (other than any furnishings or property constituting a portion of the Common Elements) belonging to or carried on the person of a Unit Owner, the Owner's tenants, invitees or licensees, or which may be stored in any Unit, or in or upon Common Elements, shall be borne by the Unit Owner. Any furnishings, equipment and other property constituting a portion of the Common Elements and held for the joint use and benefit of all Unit Owners shall be covered by such insurance as shall be maintained in force and effect by the Association, as hereinafter provided.

XX

INSURANCE COVERAGE TO BE MAINTAINED BY ASSOCIATION  
USE AND DISTRIBUTION OF INSURANCE PROCEEDS, ETC.

A) The following insurance coverage shall be maintained in full force and effect by the Association:

1. Casualty insurance covering all of the Units and Common Elements in an amount equal to the maximum insurance replacement value thereof, exclusive of excavation and foundation costs, as determined annually by the insurance carrier; or, if approved by the Board, said casualty insurance may be carried on not less than an eighty (80%) percent co-insurance basis. Such coverage shall afford protection against (i) loss or damage by fire or other hazards covered by the standard extended coverage or "other perils" endorsement,



subject to such deductible provision as the Board may approve from time to time; and (ii) such other risks of a similar or dissimilar nature as are or shall be customarily covered with respect to buildings similar to the condominium in construction, location and use;

2. Public liability and property damage insurance in such amounts and in such form as may be desired by the Board to protect the Association, its members, directors, employees and agents, including, but not limited to, hired automobile, non-owned automobile and off-premises employee coverage;

3. Such other insurance coverage as the Board, in its sole discretion, may determine from time to time to be in the best interest of the Association and the Unit Owners.

B) Liability Insurance maintained by the Association may contain liability endorsements to cover liability of all Unit Owners, jointly and severally. In any legal action in which the Association may be exposed to liability in excess of the insurance coverage protecting it and the Unit Owners, the Association shall give written notice of the possible excess exposure within a reasonable time to all Unit Owners who may be exposed to the liability and each such Unit Owner shall have the right to intervene and defend any such legal action.

C) All insurance coverage authorized to be purchased shall be purchased by the Association for itself for the benefit of all Unit Owners. The cost of obtaining the insurance coverage authorized herein is declared to be a Common Expense.

D) All policies of fire and casualty insurance covering the Condominium shall provide for the payment of insurance proceeds covering any loss to the Association, and the insurance proceeds from any fire and casualty loss shall be held for the sue and benefit of the Association all Unit Owners and their respective mortgagees, as their interest may appear, and such insurance proceeds shall be applied or distributed in the manner herein provided. The Association is hereby declared to be and is hereby appointed as authorized agent for all Unit Owners for the purpose



of filing such proofs of loss as may be required under any policy or policies of fire and casualty insurance obtained by the Association and negotiating settlements as to the value and extent of any loss which may be covered under any such policy of fire and casualty insurance and 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 such policy or policies of fire and casualty insurance and resulting in loss of or damage to insured property. Any proof of loss and any release of liability executed by the Association shall be binding upon all Unit Owners and their respective mortgages and other parties who may claim any lien or encumbrance upon their Units.

E) The Board shall have the right to select the insurance company or companies with whom insurance coverage required or purchased pursuant to this Article will be placed.

F) In the event any insurance proceeds are paid to the Association for any fire or casualty loss, the holder or holders of any mortgage or mortgages encumbering a Unit shall not have the right to determine or participate in the determination or repair or replacement of any loss or damage and shall not have the right to elect to apply insurance proceeds to the reduction of any mortgage or mortgages, unless such insurance proceeds represent a distribution to the Unit Owner or Unit Owners and their respective mortgagee or mortgagees, as herein authorized.

G) In the event of the loss or damage solely to Common Elements, real or personal, which loss or damage is covered by fire and casualty insurance, the proceeds paid to the Association to cover such loss or damage shall be applied to the repair, replacement or reconstruction of such loss or damage. If the insurance proceeds are in excess of the cost of the repair, replacement or reconstruction of such Common Elements, then such excess insurance proceeds shall be paid by the Association to the reserve fund of the Association. If it appears that the insurance proceeds covering the fire and casualty loss or damage payable to the Association are not sufficient to pay for the repair,



replacement or reconstruction of the loss or damage, then the Association shall pay from its reserve fund a sum which, together with the insurance proceeds received or to be received will enable the Association to complete the repair, replacement or reconstruction of any loss or damage, as the case may be. If the sum in such reserve fund is not sufficient, then the Association shall levy and collect an assessment against all Unit Owners in an amount which shall provide the sum sufficient to complete said repair, replacement or reconstruction.

H) In the event of loss or damage both to Common Elements and any Unit or Units, which loss or damage is covered by fire and casualty insurance in favor of the Association, the proceeds paid to the Association to cover such loss or damage shall be first applied to the repair, replacement or reconstruction, as the case may be, of Common Elements, real or personal, and then any remaining insurance proceeds shall be applied to the repair, replacement or reconstruction of any Unit or Units which may have sustained any loss or damage so covered. If the proceeds of said fire and casualty insurance are sufficient to pay for the repair, replacement or reconstruction of any loss of or damage to Common Elements, but should the same not be sufficient to repair, replace or reconstruct any loss of or damage to any Unit or Units, the Association shall be in an amount sufficient to pay completely for the repair, replacement or reconstruction of said Unit. Where several Units are so affected, the assessment to be levied and collected from the owner of each Unit sustaining loss or damage as the cost of repair, replacement or reconstruction of said Unit Owner's Unit bears to the cost of repairing all Units sustaining loss or damage. In the fire and casualty insurance proceeds payable to the Association in the event of loss of or damage to Common Elements and Units is not in an amount which will pay for the complete repair, replacement or reconstruction of the Common Elements, it being recognized that such insurance proceeds are to be first applied to payment for repair, replacement or reconstruction of said Common Elements before being applied to the





repair, replacement or reconstruction of a Unit or Units, than the cost to repair, replace or reconstruct the said Common Elements in excess of available fire and casualty insurance proceeds shall be levied and collected in the same manner as would such assessment be levied and collected had the loss or damage sustain been solely to Common Elements and the fire and casualty insurance proceeds not been sufficient to cover the cost of repair, replacement or reconstruction; and the cost of repair, replacement or reconstruction of each Unit or Units sustaining loss or damage shall then be levied and collected by assessment of the Unit Owners sustaining loss or damage in the manner of apportionment above provided. If the insurance proceeds are in excess of the cost of the repair, replacement or reconstruction of the Common Elements and the Units sustaining any loss or damage, then such excess insurance proceeds shall be paid to the reserve fund of the Association. In the event of loss of or damage to property covered by fire and casualty insurance, the Association shall, within sixty (60) days after any such occurrence, obtain reliable and detailed estimates of the cost of placing such damaged property in a condition as good as that before such loss or damage, such estimates to contain and include the cost of any professional fees and premium for any bond which the Board may deem to be in the best interest of the Association.

I) In the event of loss of or damage to personal property belonging to the Association and which may be a part of the Common Elements and should the Association determine not to replace all or part of such personal property as may be lost or damaged, then the insurance proceeds applicable thereto shall be paid by the Association into its reserve fund. Any contracts for repairs, replacement or reconstruction of loss or damage shall be let by the Board in the name of the Association and, where applicable, the Board shall authorize payments to be made thereunder.



ASSESSMENTS; ALTERATIONS AND IMPROVEMENTS;  
LIABILITY, LIEN AND ENFORCEMENT

A) The Association is given the authority to maintain, operate and manage the Condominium, it being recognized that the delegation of such duties to one entity is in the best interest of all Unit Owners. To maintain, operate and manage properly the Condominium, the Association may incur Common Expenses for the mutual benefit of all of the Unit Owners. To provide the funds necessary for such maintenance, operation and management, and pursuant to the Bylaws, the Association, acting through the Board, shall have the duty and the right to make, levy and collect assessments against the Unit Owners.

B) The Board shall have the right to make or cause to be made improvements to the Common Elements. The cost of such improvements shall be assessed and collected from all of the Unit Owners, by special or regular assessment. However, should the required assessment per Unit for such improvement exceed one-half (1/2) of the per Unit regular annual assessment for the year in which the improvement is to be made, the approval of a majority of the voting interests shall first be required. "Improvement" as used herein shall not include any repair or replacement work relating to maintenance or upkeep of the condominium.

C) The Board shall have the right to specially assess the unit owners for the cost of maintenance, repairs, and replacements, and no such special assessment shall be subject to the prior approval of the unit owners.

D) The Association shall have a lien on a Unit for any unpaid assessment levied against the Unit Owner pursuant to any provision of this Declaration, together with interest thereon at fifteen (15%) percent per annum. In the event any assessment is not paid when due, the delinquent Unit Owner agrees to pay a one-time late charge of \$25.00 per assessment, as well as interest at the rate of 15% per annum, and all reasonable attorney's fees and costs sustained by the Association incident to the collection of

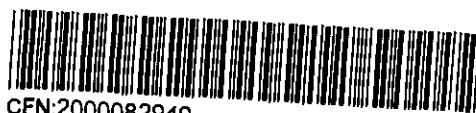


such unpaid assessment or the enforcement of the Association's assessment rights. The Association's lien shall also secure the payment of such late charges, attorney's fees and costs. The lien shall be effective, as to any first mortgage, in accordance with the provisions of Section 718.116 of the Condominium Act, as amended; but otherwise the Association's lien shall relate back to this Declaration and shall be prior and superior to all other interests arising after recordation of this Declaration. Foreclosure of the Association's lien shall not be construed to forgive or abate the obligation of the delinquent Unit Owner to pay such unpaid assessments together with late charges, interest and attorney's fees, if any, or to pay any assessments thereafter coming due.

## XXII

### TERMINATION

A) Notwithstanding anything to the contrary contained herein, in the event of fire or other casualty or disaster which shall totally demolish the Condominium or which shall so destroy the Condominium as to require more than two-thirds (2/3) of the building and improvements, as determined by the Board, to be reconstructed, then this Declaration and the plan of condominium ownership established herein shall terminate, unless Unit Owners holding at least eighty (80%) percent of the votes of the membership agree that the condominium shall be reconstructed or unless any policy or policies of casualty insurance which may cover the damage or destruction of said building require the reconstruction thereof as a condition precedent to the payment of insurance proceeds under such policy or policies. Notwithstanding anything to the contrary in this Article, this Declaration and the plan of condominium ownership established herein shall be terminated if there exists any regulations or order of any government authority having jurisdiction over the Condominium which may then prevent the reconstruction of the Condominium, although nothing herein contained shall be construed as releasing or in any



manner altering any obligation which may be owed to the Association, for itself and for the benefit of the members thereof, under any insurance policy or policies then existing. Reference to two-thirds (2/3) of the building and improvements shall be taken to mean two-thirds (2/3) of the total value, as determined by the Board, of all of the buildings and improvements as of the day prior to the event or events causing such damage or destruction.

B) If, as above provided, this Declaration and the plan of condominium ownership established herein are to terminate, then a certificate of a resolution of the Board to that effect and notice of the cancellation and termination hereof shall be executed by the president of the Association and acknowledged in the same manner as a deed, and such instrument shall be recorded among the Public Records of Brevard County, Florida. Upon termination of this Declaration and the plan of condominium ownership established herein, all of the Unit Owners shall be and become tenants in common as to ownership of the Property and any then remaining improvements thereon and the undivided interest in the Property remaining improvements held by each Unit Owner shall constitute the same fraction of the whole as did the undivided interest in the Common Elements which was formerly appurtenant to such Unit Owner's Unit, and the lien of any mortgage or other encumbrance upon a Unit shall attach, without any change in order of priority, to the undivided interest in the Property and remaining improvements of the Unit Owner. Upon the termination of the Declaration and the plan of condominiums ownership established herein, the owner or owners of any Units still in use shall, within sixty (60) days from date of recording of said certificate of resolution, deliver possession of their respective Units to the Association. Further, following termination of this Declaration and the plan of condominium ownership established herein, the Association shall distribute to the Unit Owners and their mortgagees, as their respective interests may appear, any insurance indemnity which is paid to the Association under any policy or policies of casualty insurance, such distribution to be made to each Unit Owner in



accordance with their then undivided interest in the Property and remaining improvements as herein provided. The assets of the Association, upon termination of this Declaration and the plan of condominium ownership established herein, the Association shall distribute to the Unit Owners and their mortgagees, as their respective interests may appear, any insurance indemnity which is paid to the Association under any policy or policies of casualty insurance, such distribution to be made to each Unit Owner in accordance with their then undivided interest in the Property and remaining improvements as herein provided. The assets of the Association, upon termination of this Declaration and the plan of condominium ownership established herein, shall then be distributed to each of the Unit Owners and to their mortgagees, as their respective interests may appear, in the same manner as is herein provided for the distribution of any final insurance indemnity.

XXIII

AMENDMENT OF DECLARATION OF CONDOMINIUM

This Declaration of Condominium may be amended in the following manner:

A) An amendment to this Declaration may be proposed by a majority of the Directors or by Unit Owners holding at least twenty (20%) percent of the votes of the membership, whether at a duly called meeting or by instrument in writing signed by them. Upon any amendment or amendments to this Declaration being proposed by the Board or Unit Owners, such proposed amendment shall be transmitted to the president of the Association, or other officer of the Association in the absence of the president, who shall thereupon call a special meeting of the Unit Owners in the manner provided in the Bylaws. As such meeting, the amendment proposed must be approved by affirmative vote or not less than two-thirds (2/3) of the vote of the membership. Upon approval, such amendment shall be transcribed and certified by the president of the Association as having been duly adopted, and the original or an executed copy of such amendment, executed and acknowledged in the



same manner as a deed, shall be recorded among the Public Records of Brevard County, Florida, within a reasonable time after date of approval. The recorded amendment may specifically refer to the recording date identifying this Declaration. Thereafter, a copy of said amendment in the form in which the same was placed of record by the officers of the Association shall be delivered to the Unit Owners, but deliver of said copy shall not be a condition precedent to the effectiveness of such amendment.

B) No alteration in the fractional interest in the Common Elements and Common Surplus appurtenant to each Unit or alteration of the basis for sharing Common Expenses, or other apportionment of assessments, which may be levied by the Association in accordance with the provisions hereof, shall be made without the prior written consent of all Unit Owners and of all institutional lenders, or as otherwise allowed by law.

C) Notwithstanding any provision to the contrary herein, no alteration, amendment or modification of those rights and privileges granted and reserved hereunder for the benefit of Institutional Lenders shall be made without the prior written consent of all Institutional Lenders, and no alteration, amendment or modification of any rights or privileges granted and reserved (whether express or implied) hereunder for the benefit of the Developer shall be made without the prior written consent of the Developer.

#### XXIV

#### REGULATIONS; ENFORCEMENT; REMEDIES

A) The Association, acting through the Board, shall have and is hereby granted the authority and power to enforce the provisions of this Declaration and to adopt, promulgate and enforce such rules and regulations governing the use of the Units, Common Elements and Limited Common Elements as the Board may deem to be in the best interests of the Association.

B) The Unit Owner and their tenants, invitees and lessees shall be governed by and shall comply with the provisions of this



Declaration, the Bylaws and the Regulations as any of the same are now constituted or as they may be amended from time to time. Failure to comply with any of the terms of this Declaration, the Bylaws or Regulations shall constitute cumulative grounds for relief which shall include, but not by way of limitation, action for damages; injunctive relief; foreclosure of lien; eviction by the Association of a tenant violating any provisions hereof; imposition of fines, late fees and administrative charges to the maximum extent permitted by this Declaration, the Condominium Act or other law; or any combination thereof.

C) The Association shall be entitled to recover from a Unit Owner and any other party violating any provision of the Declaration, Bylaws, Articles or board Rules and Regulations, costs and reasonable attorney's fees, whether or not legal proceedings are instituted. "Attorney's Fees" as used herein shall include attorney's fees incurred in connection with appellate proceedings.

D) The failure of the Association, the Developer or a Unit Owner to enforce any right, provision, covenant or condition, which may be granted by this Declaration, the Bylaws, Articles or Rules and Regulations, shall not constitute a waiver of enforcement of such right, provision, covenant or condition in the future.

E) All rights, remedies and privileges granted to the Association, the Developer or the Unit Owners pursuant to any terms, provisions, covenants or conditions of this Declaration shall be deemed to be cumulative. The exercise of any one or more right, remedy or privilege shall not be deemed to constitute an election of remedies and shall not preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to the party at law or in equity.

XXV

ASSOCIATION TO MAINTAIN REGISTER OF OWNERS  
LESSEES AND MORTGAGEES

The Association shall at all times maintain a register setting forth the names and mailing addresses of all Unit Owners mortgages

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and lessees. All Unit Owners shall advise the Association of the name and mailing addresses of any tenant and any holder of a mortgage on the Owner's Unit. Within ten (10) days after the execution of a lease of a Unit, the Unit owner shall provide a copy of the lease to the Association.

XXVI

REAL ESTATE TAXES

Real estate taxes are to be separately assessed to each Unit, as provided in the Condominium Act. If for any year such taxes are not separately assessed to each Unit Owner, then each Unit Owner shall pay his proportionate share thereof based upon the percentage of his share of the common elements set forth in Paragraph V above.

XXVII

SEVERABILITY

The invalidity in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or word or other provision of this Declaration, the Articles, Bylaws or Regulations shall not affect the validity of the remaining portions.

XXVIII

LIBERAL CONSTRUCTION

The provisions of the Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership. The provisions of this Declaration shall not be construed against the drafter, nor shall they be construed in favor of an owner as a limitation on the use of real property.

XXIX

EASEMENT TO DEVELOPER

The Developer reserves an easement upon and across, and a license to use, all of the Common Elements for the purpose of development, construction (including reconstruction and alteration) of the Condominium, and for purposes of sales and promotion of sales of Units owned by the Developer, notwithstanding anything to





the contrary herein. This easement shall not terminate until such time as Developer (and any successor developer) no longer owns any Unit in the Condominium. Once the Developer no longer owns any units, this easement shall inure the benefit of any "successor developer" as defined in applicable law, without the necessity of a written assignment of same. The Developer's easement shall be liberally construed, and shall include, but not be limited to, the right to maintain on-site models and sales offices, place signs on the Common Elements and Limited Common Elements and in unsold Units; have sales staff present at the condominium at any time; and show unsold Units for sale.

XXX

STORMWATER PERMITTING

Attached to this Declaration as composite Exhibit "D" is Environmental Resource Permit No. 42-009-2401-NERP issued March 10, 1997 which, together with, and any further or subsequent permit(s), hereafter issued to Developer by the St. Johns River Water Management District are referred to herein as the "Permits". The following provisions shall bind the Association:

A. Property Description: Property encompassed by the permit granted by the St. Johns River Water Management District (where the surface water management systems will be located) is a portion of the Property described on Sheet 2 of Exhibit "A" hereto.

B. Definitions: "Surface Water or Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.

C. Duties of Association: The Association shall be responsible for the maintenance, operation, and repair of the surface water or stormwater management system. Maintenance of the



surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved by the St. Johns River Water Management District.

D. Covenant for Maintenance Assessments for Association:  
Assessments shall also be used for the maintenance and repair of the surface water or stormwater management systems including, but not limited to, work within retention areas, drainage structures and drainage easements.

E. Easement for Access and Drainage: The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of the common elements which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without prior written approval of the St. Johns River Water Management District.

F. Amendment: Any amendment to the Declaration of Condominium which alters any provision relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common elements must have the prior written approval of the St. Johns River Water Management District.

G. Enforcement: The St. Johns River Water Management



District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in the Declaration of Condominium which relate to the maintenance, operation and repair of the surface water or stormwater management system.

H. Swale Maintenance: The Developer has constructed a Drainage Swale upon the common elements for the purpose of managing and containing the flow of excess water, if any, found upon such common elements from time to time. The Association shall be responsible for the maintenance, operation and repair of the swales on the common elements. Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the St. Johns River Water Management District. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the Drainage Swale shall be authorized and any damage to any Drainage Swale, whether caused by natural or human-induced phenomena, shall be repaired and the Drainage Swale returned to its former condition as soon as possible by the Association.

IN WITNESS WHEREOF, the Developer, has caused these presents to be executed this 1 day of May, 2000.

[Signature]  
Witness

VILLAS BY THE SEA DEVELOPMENT, INC.

By: [Signature]  
George Rumble, President

[Signature]  
Witness

~~STATE OF~~ Province of Ontario  
~~COUNTY OF~~ Commonwealth of Canada.

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared George Rumble, known to me to be the individual who executed the foregoing Declaration and who acknowledged before me that he executed the same on behalf of the corporation. Witness my hand and official seal this 1 day of May, 2000.

[Signature]

**Karen Ann Rumble, a Commissioner, etc.,  
Regional Municipality of Halton,  
for Rumble Foundations (Ontario) Ltd.,  
and its subsidiary and affiliated  
companies. Expires October 5, 2002.**

[Signature]



TOWNHOMES OF VILLAS BY THE SEA  
A CONDOMINIUM  
AS TO BUILDING #1 ONLY

SURVEYORS CERTIFICATE  
FOR  
TOWNHOMES OF VILLAS BY THE SEA, A CONDOMINIUM

STATE OF FLORIDA

COUNTY OF BREVARD

BEFORE ME, THE UNDERSIGNED AUTHORITY DULY AUTHORIZED TO ADMINISTER OATHS AND TAKE ACKNOWLEDGMENTS, PERSONALLY APPEARED JOHN R. CAMPBELL, BY ME WELL KNOWN, AND TO ME TO BE THE PERSON HEREINAFTER DESCRIBED, WHO AFTER BEING BY ME FIRST DULY CAUTIONED AND SWORN, DEPOSES AND SAYS ON OATH AS FOLLOWS, TO-WIT:

I HEREBY CERTIFY THAT THE IMPROVEMENTS SHOWN AND DESCRIBED ON THE ATTACHED EXHIBIT "A" ARE SUBSTANTIALLY COMPLETE SO THAT THE MATERIAL DESCRIBED AND SHOWN ON THE ATTACHED EXHIBIT "A" TOGETHER WITH THE PROVISIONS OF THE DECLARATION OF CONDOMINIUM ESTABLISHING TOWNHOMES OF VILLAS BY THE SEA, A CONDOMINIUM, IS AN ACCURATE REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS, AND THE IDENTIFICATION, LOCATIONS AND DIMENSIONS OF THE COMMON ELEMENTS, AND EACH UNIT CAN BE DETERMINED FROM THESE MATERIALS.

I FURTHER CERTIFY THAT ALL PLANNED IMPROVEMENTS INCLUDING, BUT NOT LIMITED TO LANDSCAPING, UTILITY SERVICES AND ACCESS TO THE UNITS AND COMMON ELEMENTS SERVING BUILDING #1 IN WHICH THE UNITS TO BE CONVEYED ARE LOCATED HAVE BEEN SUBSTANTIALLY COMPLETED. BUILDINGS 2, 3 AND 4 ARE NOT COMPLETE.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND OFFICIAL SEAL, THIS 5TH DAY OF MAY, 2000 A.D.

CAMPBELL SURVEYING & MAPPING OF BREVARD, INC.

BY: John R. Campbell  
JOHN R. CAMPBELL  
PROFESSIONAL LAND SURVEYOR  
NO. 2351, STATE OF FLORIDA

SWORN TO AND SUBSCRIBED BEFORE ME  
AS TO "JOHN R. CAMPBELL", THIS 5TH  
DAY OF MAY, 2000 A.D.

Connie Jo Dials  
NOTARY PUBLIC STATE OF FLORIDA AT LARGE  
CONNIE JO DIALS  
MY COMMISSION EXPIRES: FEBRUARY 8, 2004



Connie Jo Dials  
MY COMMISSION # CC908924 EXPIRES  
February 8, 2004  
BONDED THRU TROY FAIN INSURANCE, INC.



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**Campbell**  
SURVEYING & MAPPING  
OF BREVARD, INC.

3525 N. COURTENAY PARKWAY - SUITE 1  
MAILING ADDRESS: P.O. BOX 542148  
MERRITT ISLAND, FL 32954 PHONE (407) 453-5820

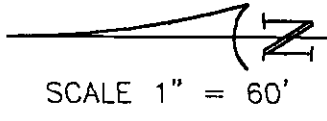
EXHIBIT "A"

SHEET 1 OF 13

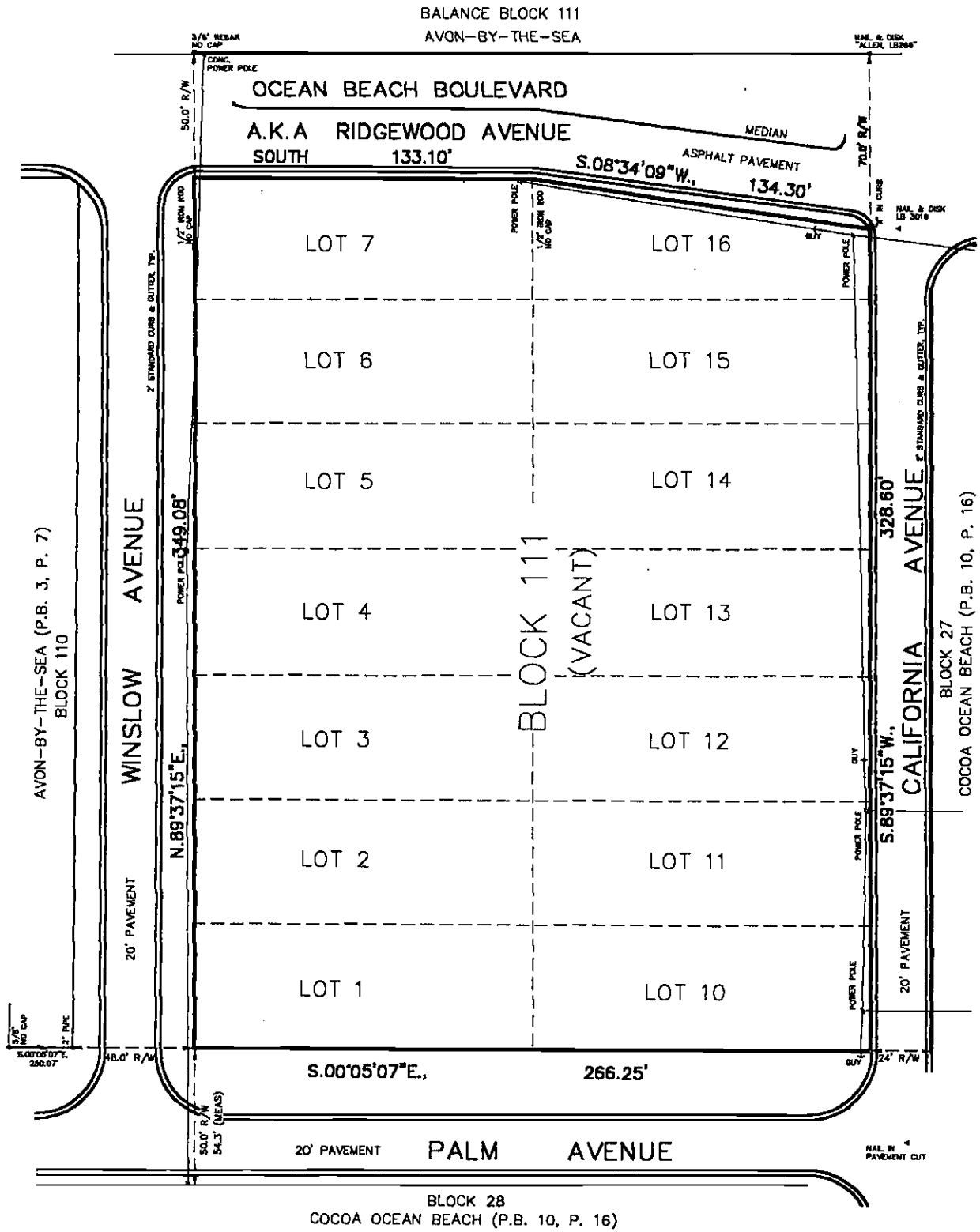
# TOWNHOMES OF VILLAS BY THE SEA

## A CONDOMINIUM

### SKETCH OF SURVEY



SCALE 1" = 60'



**LEGAL DESCRIPTION:**

That portion of Block 111 of "AVON-BY-THE-SEA", according to the Plat thereof, as recorded in Plat Book 3 at Page 7 of the Public Records of Brevard County, Florida, that lies West of Ridgewood Avenue. Said Parcel contains 2.071 acres more or less.

**SURVEYORS NOTES:**

1. The field date of this Survey is 8/29/96.
2. See Sheet No. 3 for Plot Plan.



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**CERTIFICATION:**

I hereby certify that the survey shown hereon is true and correct based on actual measurements taken in the field. This survey meets Minimum Technical Standards as set forth by the Florida Board of Professional Land Surveyors in Chapter 61 G 17-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

UNLESS IT BEARS THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID

*John R. Campbell*  
John R. Campbell  
Professional Surveyor No. 2351  
State of Florida

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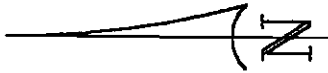
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EXHIBIT "A"

SHEET 2 OF 13

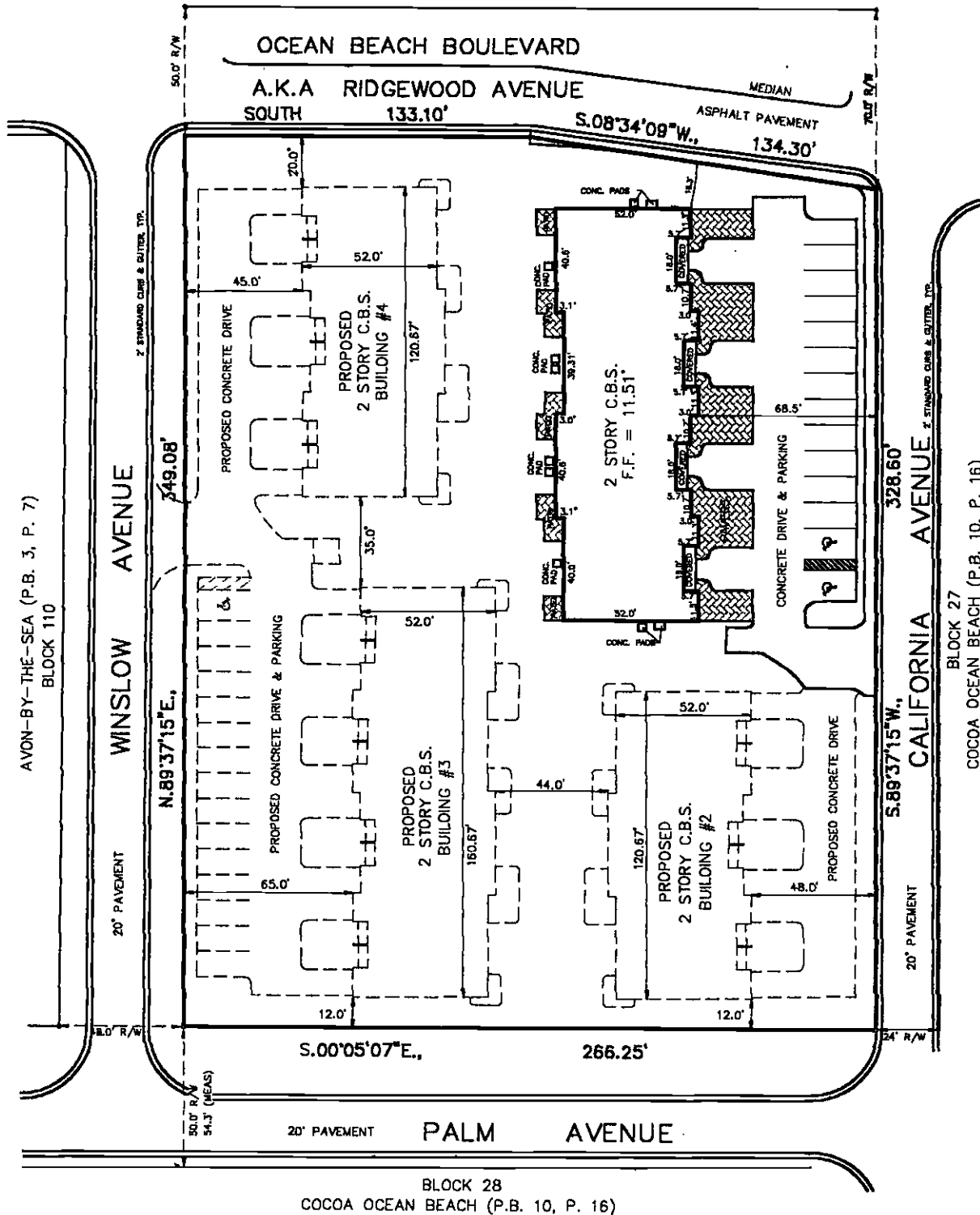
# TOWNHOMES OF VILLAS BY THE SEA

## A CONDOMINIUM PLOT PLAN



SCALE 1" = 60'

BALANCE BLOCK 111  
AVON-BY-THE-SEA



BLOCK 28  
COCOA OCEAN BEACH (P.B. 10, P. 16)

**SURVEYORS NOTES:**

1. See Sheet No. 2 for Boundary Survey of the condominium owned land.
2. All areas exclusive of the Units within the Buildings are common elements of the condominium.
3. Some areas such as patios, driveways, balconies and covered porches are common elements whose use is limited to the adjacent unit. See Floor Plans, Sheet No. 12 & 13 for the location of the limited common elements.
4. Building #1 is substantially complete. Those areas indicated by --- are proposed.
5. The Plot Plan shown was taken from the approved Engineering Site Plan prepared by C.V.H. Engineering.
6. The Building height is approximately 30.5 feet.



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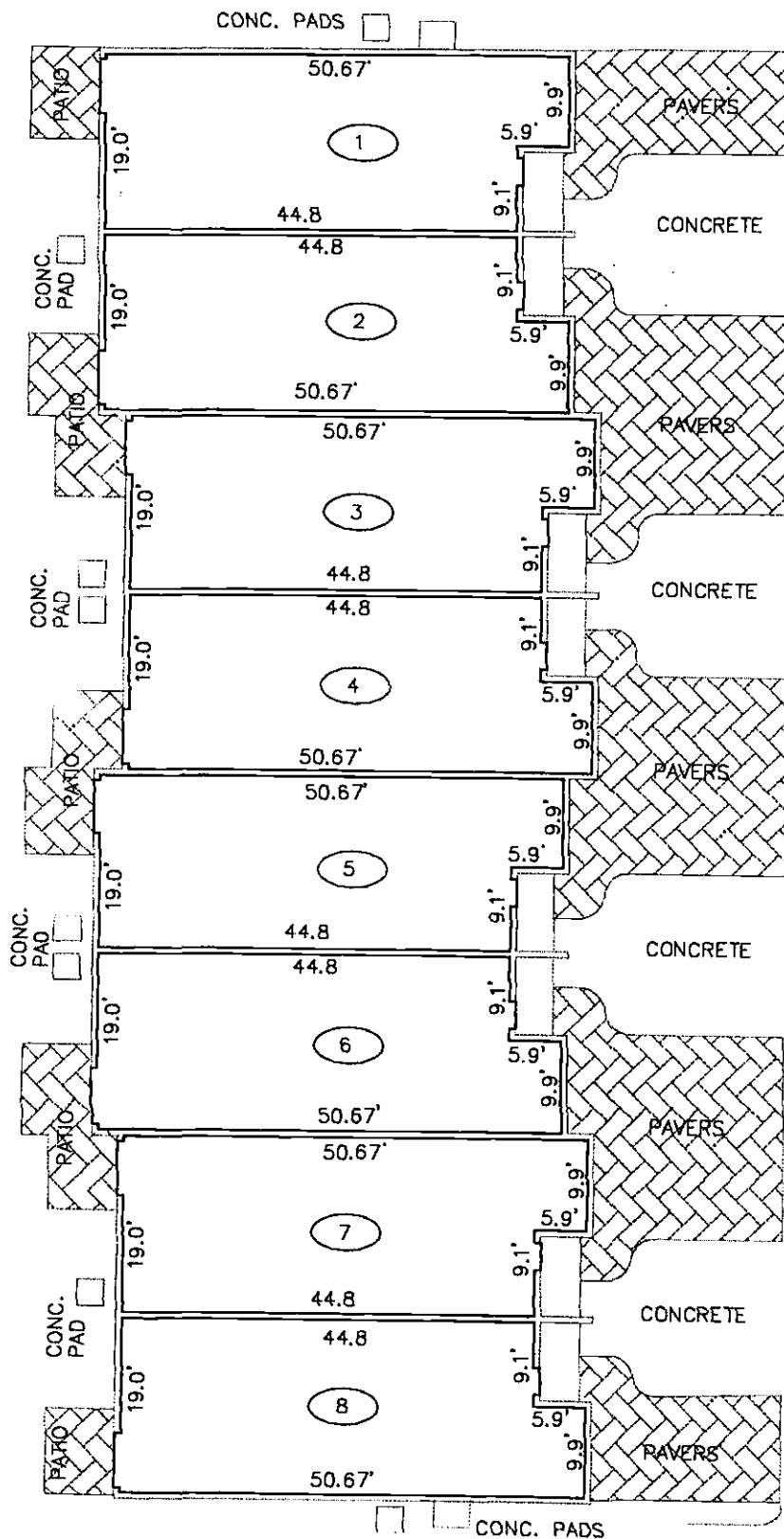
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EXHIBIT "A"

SHEET 3 OF 13

# TOWNHOMES OF VILLAS BY THE SEA A CONDOMINIUM

## BUILDING #1 - FIRST FLOOR PLAN



### SURVEYORS NOTES:

1. All areas exclusive of the Units are common elements of the condominium. The patios and driveways shown are common elements whose use is limited to the adjacent unit.
2. This building is substantially complete.
3. The Finish Floor elevation is 11.51. The Finish Ceiling elevation is 20.76. See Sheet No. 7 for the Second Floor Plan of the Units.
4. The elevations shown are based on N.G.V. Datum of 1929.
5. ——— Indicates Horizontal Limits of the Units.
6. See Sheets No. 12 & 13 for Typical Floor Plan of the Units shown.



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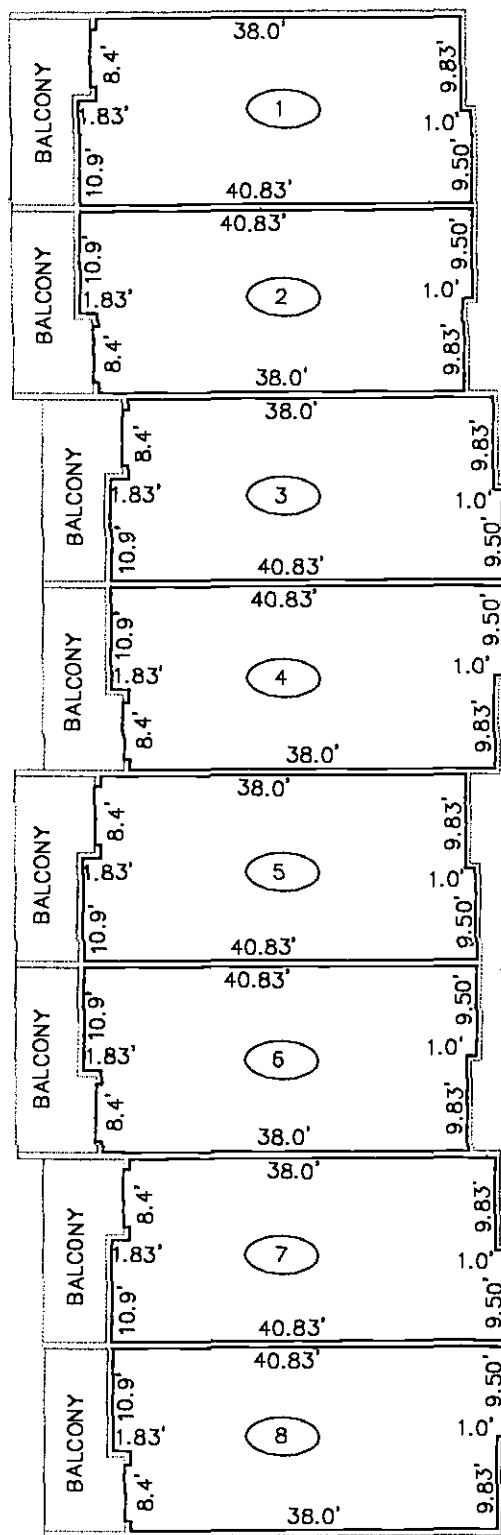
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SHEET 4 OF 13

# TOWNHOMES OF VILLAS BY THE SEA A CONDOMINIUM

## BUILDING #1 - SECOND FLOOR PLAN



**SURVEYORS NOTES:**

1. All areas exclusive of the Units are common elements of the condominium. The balconies shown are common elements whose use is limited to the adjacent unit.
2. This building is substantially complete.
3. The Finish Floor elevation is 22.31. The Finish Ceiling elevation is 30.09. See Sheet No 4 for the First Floor Plan of the Units.
4. The elevations shown are based on N.G.V. Datum of 1929.
5. ——— Indicates Horizontal Limits of the Units.
6. See Sheets No. 12 & 13 for Typical Floor Plan of the Units shown.



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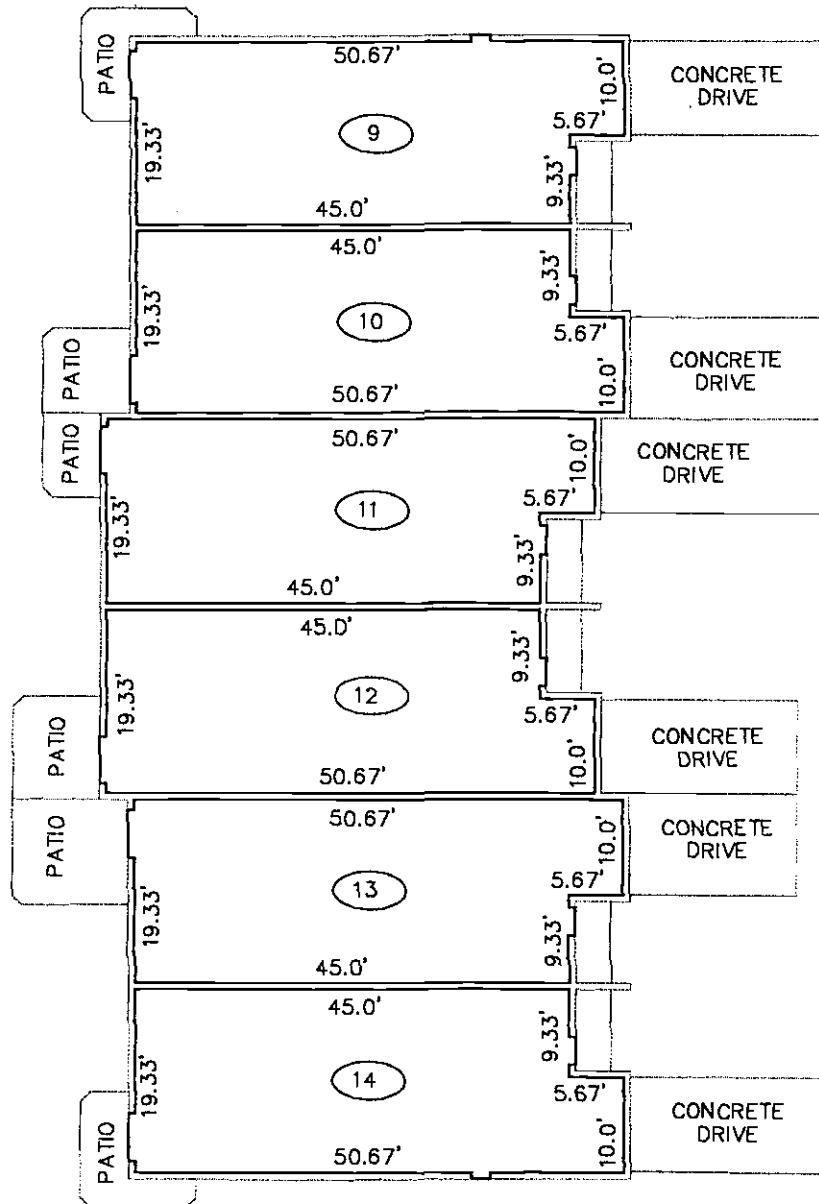
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# TOWNHOMES OF VILLAS BY THE SEA

## A CONDOMINIUM

### BUILDING #2 - FIRST FLOOR PLAN

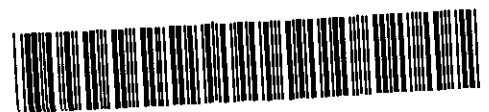


#### SURVEYORS NOTES:

1. All areas exclusive of the Units are common elements of the condominium. The patios and driveways shown are common elements whose use is limited to the adjacent unit.
2. All construction is proposed.
3. The proposed Finish Floor elevation is 11.50. The proposed Finish Ceiling elevation is 20.50. See Sheet No. for the Second Floor Plan of the Units.
4. The elevations shown are based on N.G.V. Datum of 1929.
5. — Indicates Horizontal Limits of the Units.
6. See Sheets No. 12 & 13 for Typical Floor Plan of the Units shown.

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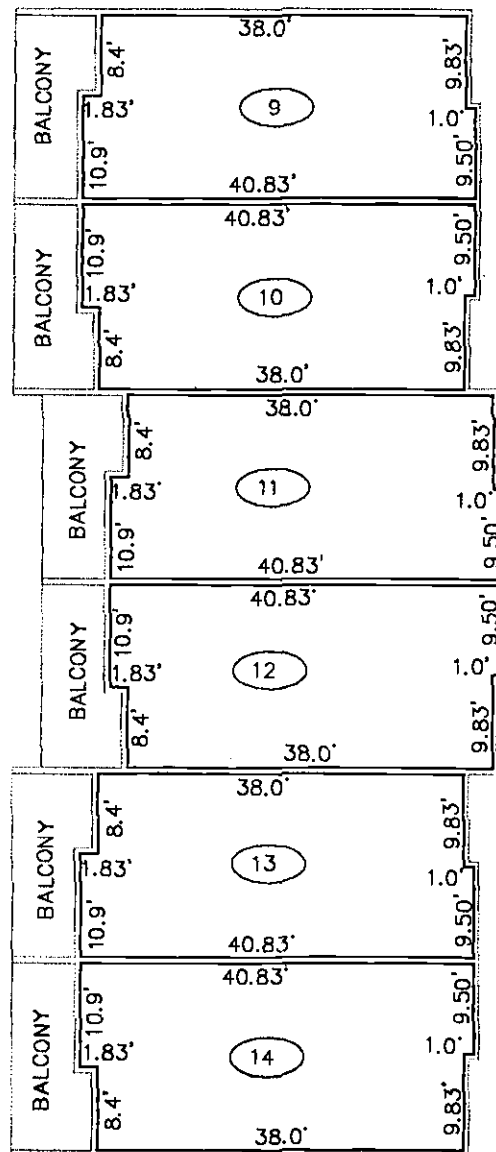
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# TOWNHOMES OF VILLAS BY THE SEA A CONDOMINIUM

## BUILDING #2 - SECOND FLOOR PLAN



### SURVEYORS NOTES:

1. All areas exclusive of the Units are common elements of the condominium. The balconies shown are common elements whose use is limited to the adjacent unit.
2. All construction is proposed.
3. The proposed Finish Floor elevation is 22.25. The proposed Finish Ceiling elevation is 30.25. See Sheet No. for the Second Floor Plan of the Units.
4. The elevations shown are based on N.G.V. Datum of 1929.
5. ——— Indicates Horizontal Limits of the Units.
6. See Sheets No. 12 & 13 for Typical Floor Plan of the Units shown.



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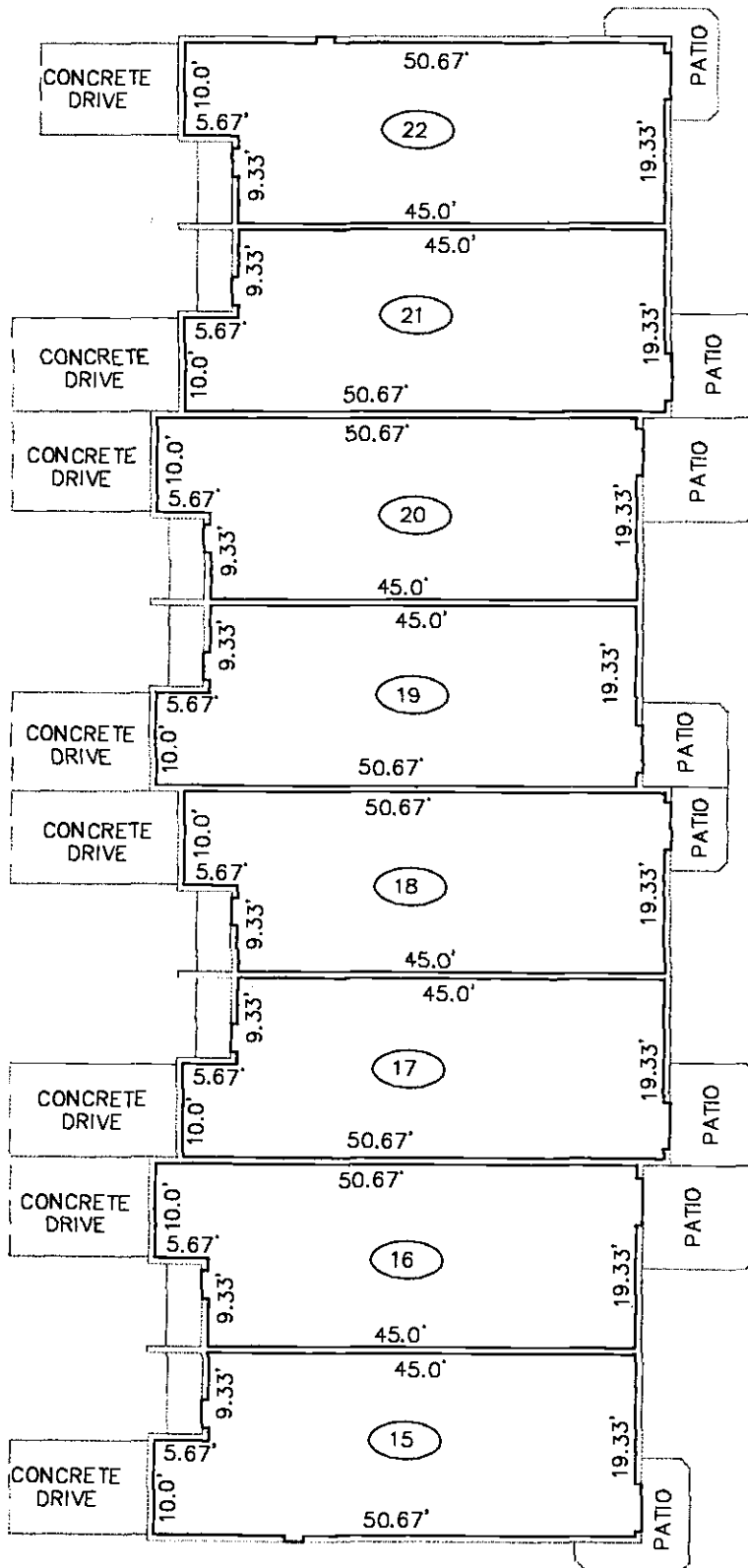
EXHIBIT "A"

SHEET 7 OF 13

# TOWNHOMES OF VILLAS BY THE SEA

## A CONDOMINIUM

### BUILDING #3 - FIRST FLOOR PLAN



#### SURVEYORS NOTES:

1. All areas exclusive of the Units are common elements of the condominium. The patios and driveways shown are common elements whose use is limited to the adjacent unit.
2. All construction is proposed.
3. The proposed Finish Floor elevation is 11.50. The proposed Finish Ceiling elevation is 20.50. See Sheet No. for the Second Floor Plan of the Units.
4. The elevations shown are based on N.G.V. Datum of 1929.
5. ——— Indicates Horizontal Limits of the Units.
6. See Sheets No. 12 & 13 for Typical Floor Plan of the Units shown.



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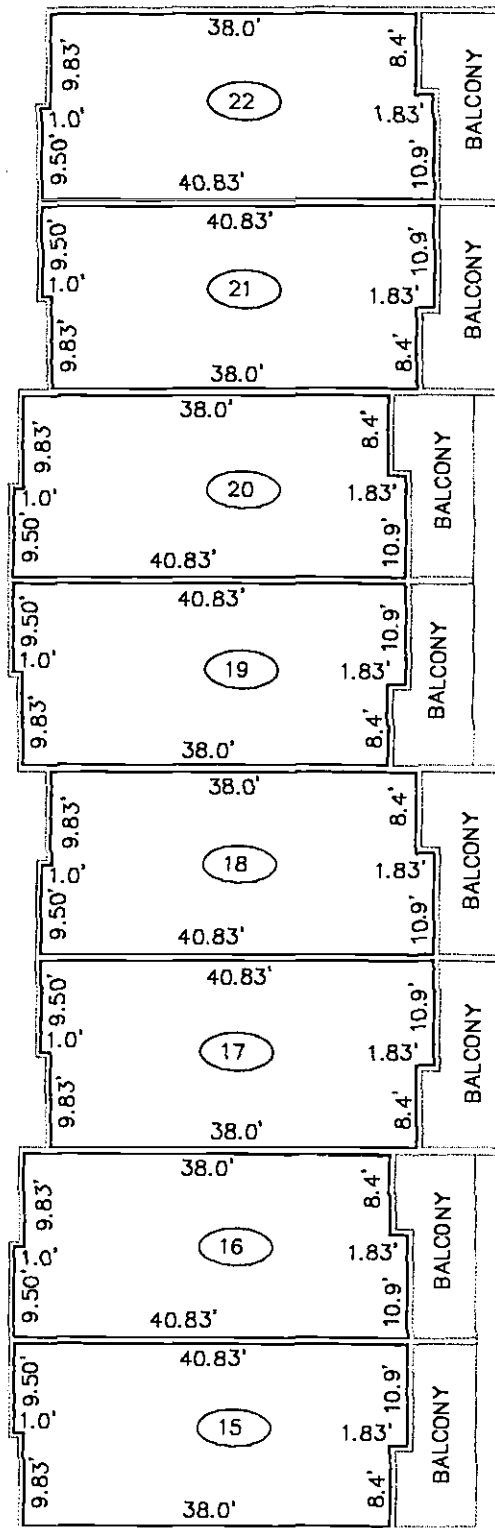
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SHEET 8 OF 13

# TOWNHOMES OF VILLAS BY THE SEA

## A CONDOMINIUM

### BUILDING #3 - SECOND FLOOR PLAN



**SURVEYORS NOTES:**

1. All areas exclusive of the Units are common elements of the condominium. The balconies shown are common elements whose use is limited to the adjacent unit.
2. All construction is proposed.
3. The proposed Finish Floor elevation is 22.25. The proposed Finish Ceiling elevation is 30.25. See Sheet No. for the Second Floor Plan of the Units.
4. The elevations shown are based on N.G.V. Datum of 1929.
5. ——— Indicates Horizontal Limits of the Units.
6. See Sheets No. 12 & 13 for Typical Floor Plan of the Units shown.

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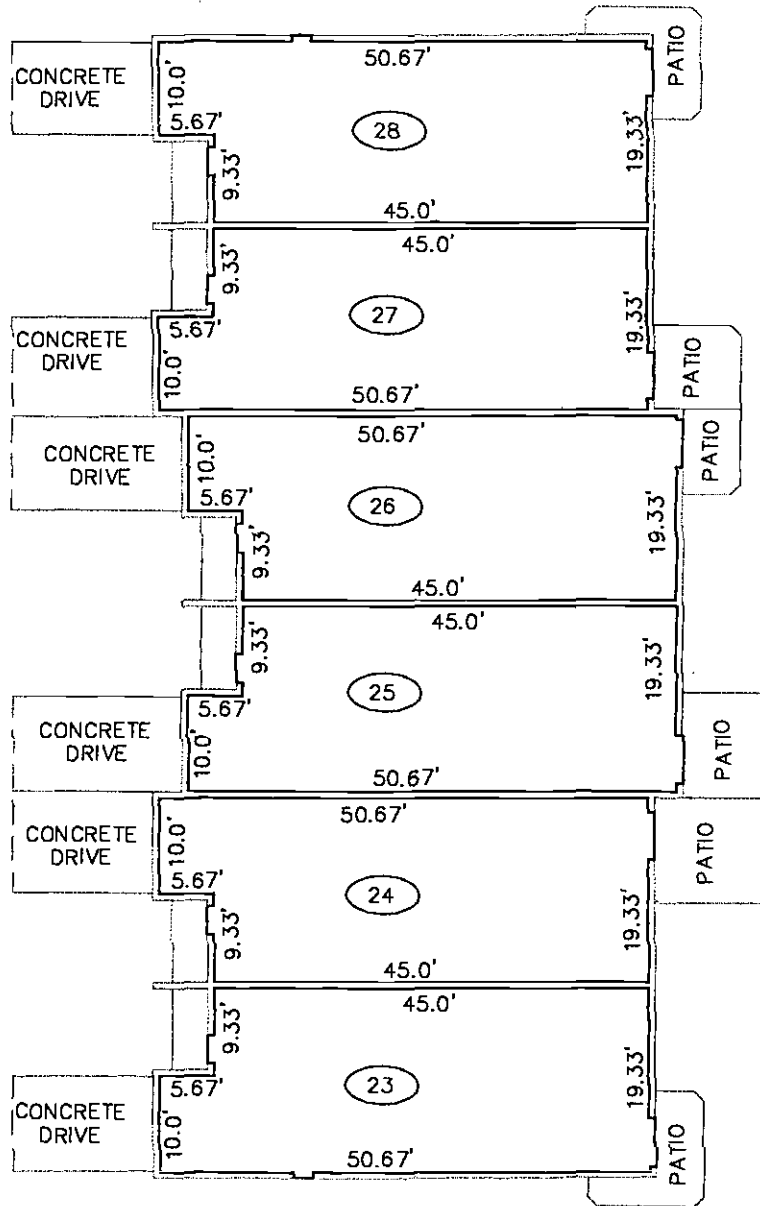
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# TOWNHOMES OF VILLAS BY THE SEA A CONDOMINIUM

## BUILDING #4 - FIRST FLOOR PLAN



### SURVEYORS NOTES:

1. All areas exclusive of the Units are common elements of the condominium. The patios and driveways shown are common elements whose use is limited to the adjacent unit.
2. All construction is proposed.
3. The proposed Finish Floor elevation is 11.50. The proposed Finish Ceiling elevation is 20.50. See Sheet No. for the Second Floor Plan of the Units.
4. The elevations shown are based on N.G.V. Datum of 1929.
5. ——— Indicates Horizontal Limits of the Units.
6. See Sheets No. 12 & 13 for Typical Floor Plan of the Units shown.



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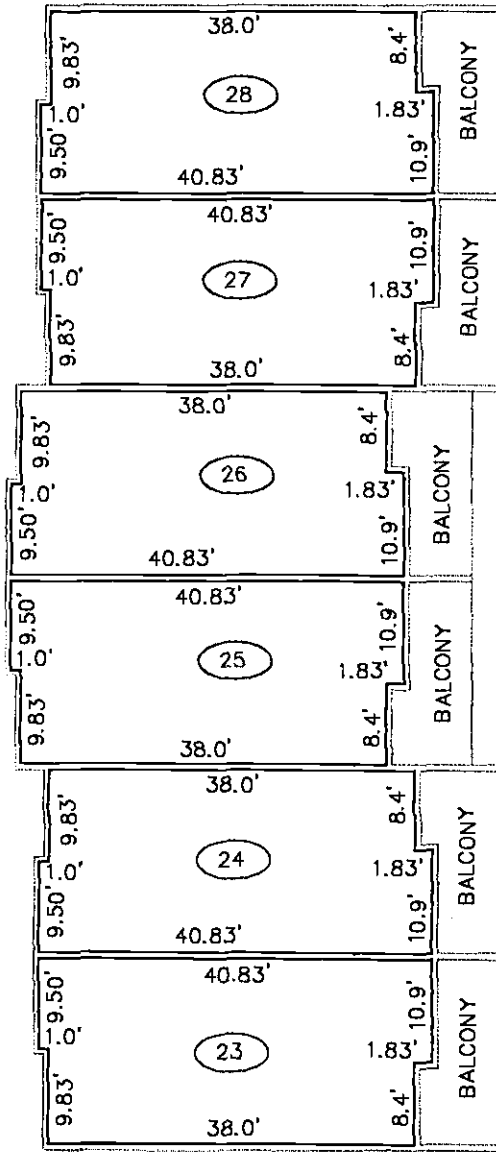
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SHEET 10 OF 13

# TOWNHOMES OF VILLAS BY THE SEA

## A CONDOMINIUM

### BUILDING #4 - SECOND FLOOR PLAN



**SURVEYORS NOTES:**

1. All areas exclusive of the Units are common elements of the condominium. The balconies shown are common elements whose use is limited to the adjacent unit.
2. All construction is proposed.
3. The proposed Finish Floor elevation is 21.75. The proposed Finish Ceiling elevation is 29.75. See Sheet No. for the Second Floor Plan of the Units.
4. The elevations shown are based on N.G.V. Datum of 1929.
5. — Indicates Horizontal Limits of the Units.
6. See Sheets No. 12 & 13 for Typical Floor Plan of the Units shown.

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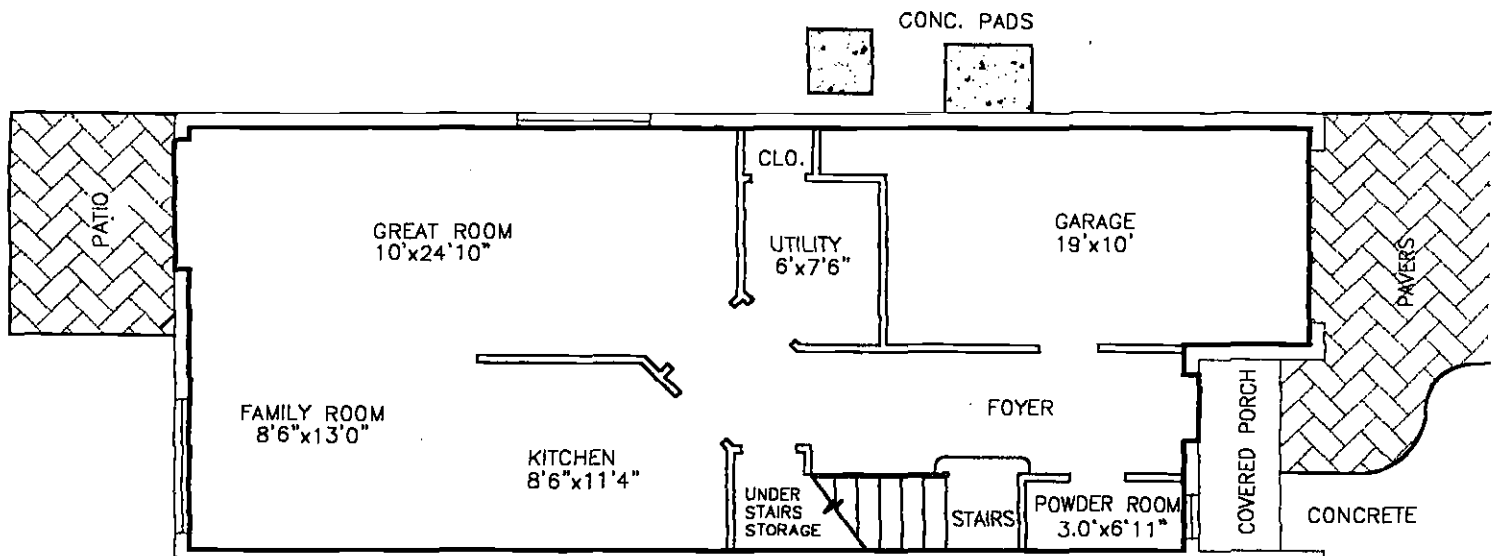
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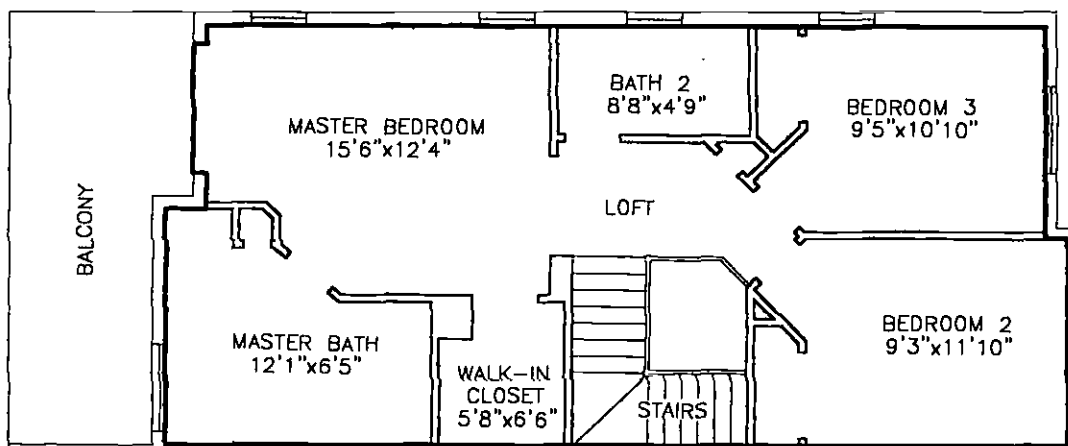
SHEET 11 OF 13

# TOWNHOMES OF VILLAS BY THE SEA A CONDOMINIUM

## TYPICAL END UNIT



FIRST FLOOR PLAN



SECOND FLOOR PLAN

**SURVEYORS NOTES:**

1. This Unit is typical of all End Units. Some End Units are reversed or a mirror image of the Plan shown.
2. The room dimensions shown are typical, however these dimensions may vary slightly from Unit to Unit within the building.
3. The patios, balconies and covered porches shown are a common element whose use is limited to the adjacent building.

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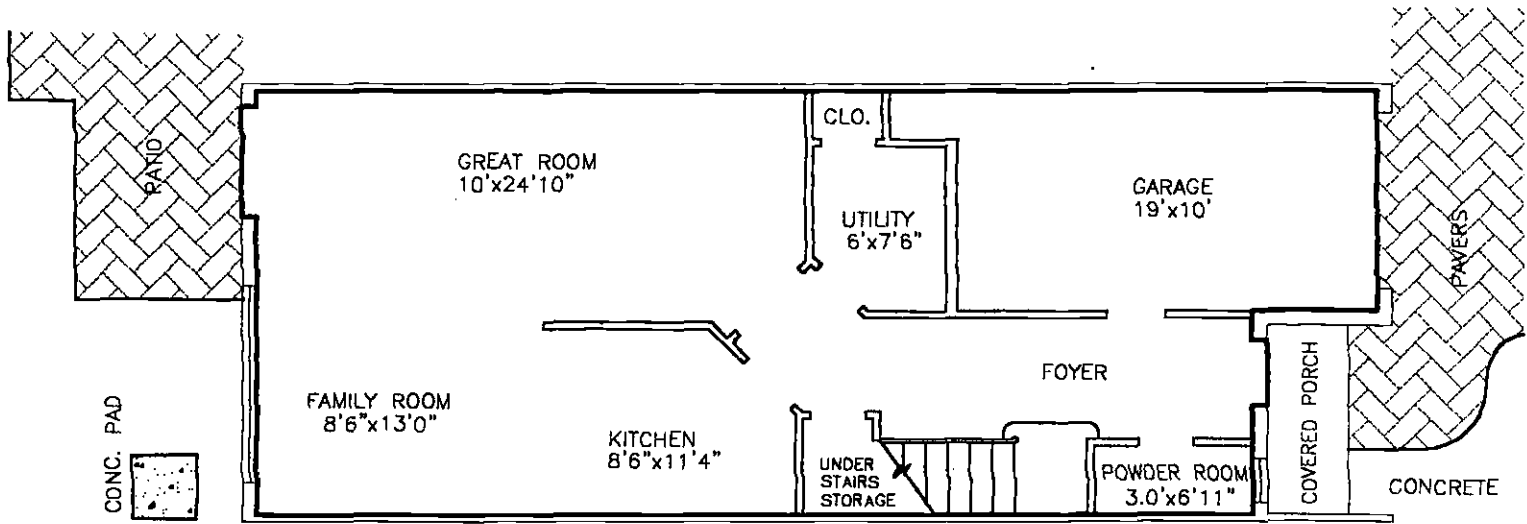


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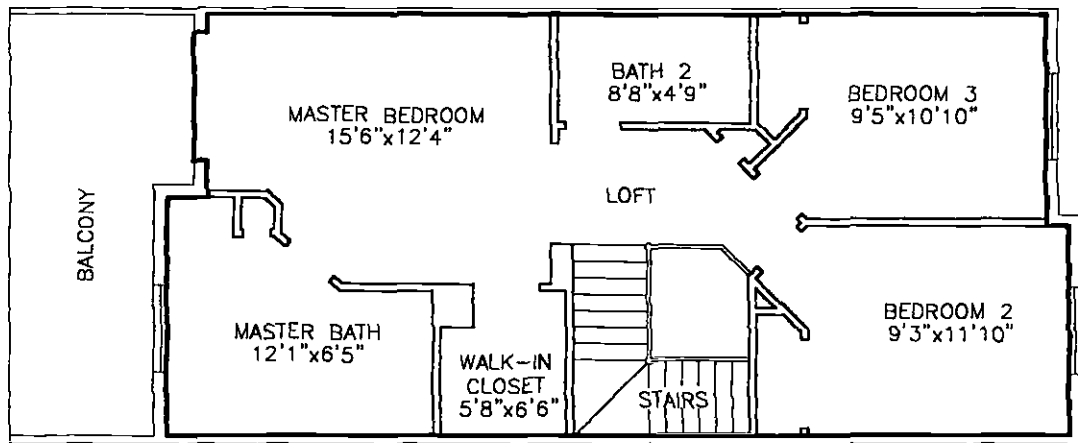
# TOWNHOMES OF VILLAS BY THE SEA

## A CONDOMINIUM

### TYPICAL INTERIOR UNIT



FIRST FLOOR PLAN



SECOND FLOOR PLAN

SURVEYORS NOTES:

1. This Unit is typical of all Interior Units. Some Interior Units are reversed or a mirror image of the Plan shown.
2. The room dimensions shown are typical, however these dimensions may vary slightly from Unit to Unit within the building.
3. The patios, balconies and covered porches shown are a common element whose use is limited to the adjacent building.



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