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DECLARATION OF CONDOMINIUM,
RESTRICTIONS, RESERVATIONS,
COVENANTS, CONDITIONS AND EASEMENTS

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HACIENDA del SOL
A CONDOMINIUM

THIS DECLARATION OF CONDOMINIUM, Restrictions, reservations, covenants, conditions and easements, made this 21st day of November, 1972, by CORNETT ENTERPRISES, INC., a corporation chartered under the laws of the State of Florida, hereinafter called the "Developer", for itself, its successors, grantees and assigns, to its grantees and assigns, and their heirs, successors and assigns.

W I T N E S S E T H:

THAT WHEREAS, the Developer is the owner of the following described real property located in Volusia County, Florida, to-wit:

Those certain lands as shown on the survey sketch attached hereto and more particularly described as:

Lots 18, 19 and 20, Block 4, ATLANTIC HEIGHTS, according to the map thereof, as recorded in Map Book 6, Page 171, Public Records of Volusia County, Florida.

The Developer has had the above described property surveyed and divided into a five-story building complex consisting of 50 living units numbered 101 through 110, inclusive, 201 through 210, inclusive, 301 through 310, inclusive, 401 through 410, inclusive, and 501 through 510, inclusive. The remaining part of the above described lands which is not within any living unit shall be known as Lot "X", and shall be the "common property" or "common elements", and

WHEREAS, the Developer desires to submit the above described real property and the improvements to be constructed thereon to condominium ownership and use pursuant to Chapter 711, Florida Statutes 1971, hereinafter called "The Condominium Act"; and

WHEREAS, all the restrictions, reservations, covenants,

conditions and easements contained herein shall constitute covenants running with the land or equitable servitudes upon the land, as the case may be, and shall rule perpetually unless terminated as provided herein and shall be binding upon all parties or persons subsequently owning property in said condominium, and in consideration of receiving and by acceptance of a conveyance, grant, devise, lease or mortgage, all grantees, devisees, lessees, and assigns, and all parties claiming by, through or under such persons, agree to be bound by all the provisions hereof except, however, if Developer shall convey all of the property designated as HACIENDA del SOL, a condominium, to a corporate grantee, then and in any such event, said immediate grantee shall be considered as Developer herein for all intents and purposes. Both the burdens imposed and the benefits shall run with each Unit and the interests in Common Property as herein defined.

NOW, THEREFORE, the said CORNETT ENTERPRISES, INC., a corporation chartered under the laws of the State of Florida, hereby makes the following declarations, restrictions, reservations, covenants, conditions and easements:

1. That certain real property located in Volusia County, Florida, described above, together with the improvements to be constructed thereon, is hereby submitted to condominium ownership and use.

2. The name by which the condominium is to be identified shall be, HACIENDA del SOL, A CONDOMINIUM.

3. The terms used in this Declaration and in the Exhibits thereto shall have the meanings stated in Section 711.03 Florida Statutes 1971, and as follows:

(A) "Association" shall mean HACIENDA del SOL ASSOCIATION, INC., a corporation not for profit, organized under the laws of the State of Florida, and its successors.

(B) "Common expenses" shall include:

- (1) (a) Expenses of Administration;
- (b) Expenses of maintenance, operation, repair or replacement of the common elements and any portions of the units to be maintained by the Association;
- (c) Expenses of maintaining and operating any other property or improvements in which the Association owns an interest and which property or improvements are reasonably related to the operation of the Condominium; and
- (d) Reasonable reserves for replacement of the items set forth in subparagraphs (b) and (c) of this paragraph 3(B)(1).
- (2) Expenses declared to be common expenses by the provisions of this Declaration or by the Bylaws of the Association.
- (3) Any valid charge against the Condominium property as a whole.

4. The Condominium is described as follows:

(A) A survey and plot plan of the land locating and showing the improvements to be constructed thereon is recorded in Map Book 31, Pages 187 to 192, inclusive.

(B) The improvements shall be constructed substantially in accordance with the plans and specifications prepared by William A. Juhn, Architect, Cocoa Beach, Florida, entitled HACIENDA del SOL, prepared in 1971.

(C) Each of the condominium units is composed of dwelling units as designated and shown on Exhibit "A" as recorded in Map Book 31, Pages 187-192, inclusive, Public Records of Volusia County, Florida, but where there is attached to the building a balcony, loggia, terrace, canopy, stairway, or other portion of the building serving only the unit being bounded, the boundary of such unit shall be deemed to exclude all of such structures and any fixtures thereon. Each unit is and shall continue to be identified by number as shown on said Exhibit "A" so that no unit bears the same designation as does any other unit. As reflected on Exhibit "A", each unit shall consist of all spaces and improvements lying between the undecorated and/or unfinished inner surfaces of the perimeter walls and floors, and below the undecorated and/or unfinished inner surfaces of the ceilings of each dwelling unit, and further including all spaces and improve-

ments lying between the undecorated and/or unfinished inner surfaces of all interior bearing walls and/or bearing partitions, and further including all pipes, ducts, wires, conduits, and other facilities running through any interior wall or partition for the furnishing of utility services to individual units and common property. All property included in this condominium which is not within any living unit shall be deemed common property or common elements, and has been designated as Lot "X", and hereafter the term "common property" or "common elements" shall include and be synonymous with Lot "X".

(D) The common elements shall include the land and all other parts of the condominium not included within the units.

5. Developer reserves the right to change the interior design and arrangement of all units, and to alter the boundaries between units, provided Developer owns the units so altered and provided further that prior written consent is obtained from all mortgagees holding a mortgage affecting the units being so altered. An amendment to this Declaration reflecting such alteration by the Developer need be signed and acknowledged only by the Developer after such written consent, and need not be signed by the Association, unit owners, lienors, or mortgagees. No such change shall, however, increase the number of units nor alter the boundaries of the common elements without an amendment to this Declaration in the manner hereinafter provided.

6. Such easements are reserved throughout the Condominium property as may be required for utility services needed to serve the condominium adequately; provided, however, such easements through a unit shall be only in accordance with the plans and specifications for the building containing said unit, or as the building is actually constructed, unless approved in writing by the unit owner and mortgagees of record. All owners of units shall have as an appurtenance to their units a perpetual easement for ingress to and egress from their units over stairs, terraces, balconies, walks and other common property from and to the parking

areas and public streets bounding HACIENDA del SOL, a condominium, and a perpetual right or easement, in common with all persons owning an interest in any unit in HACIENDA del SOL, a condominium, to the use and enjoyment of all public portions of buildings and to other common facilities (including but not limited to utilities as they now exist) located in the common property.

All property covered by the exhibits hereto shall be subject to a perpetual easement for encroachments which now exist or hereafter exist caused by settlement or movement of the building and encroachments shall continue until such encroachment no longer exists.

All units and the common property shall be subject to a perpetual easement in gross being granted to HACIENDA del SOL ASSOCIATION, INC., and its successors for ingress and egress for the purpose of having its employees and agents perform all obligations and duties of the corporation set forth herein.

7. The owner of each unit shall own a share and certain interests in the common elements, which share and interests are appurtenant to his unit, including the following items:

(A) An undivided share in the common elements which shall be the percentage interest set forth and assigned to each unit in that certain schedule which is attached hereto and marked Exhibit "B".

(B) Membership in the Association and an undivided share in the funds and assets held by the Association which share shall correspond to the percentage interest assigned to each unit as set forth in Exhibit "B".

(C) The common elements include parking spaces for automobiles of the unit owners and their guests. Parking spaces will be assigned, and will be available for use pursuant to the regulations of the Association; provided however, that in no event shall said regulations provide less than one parking space per unit.

8. Each unit owner shall be liable for a proportionate share of the common expenses, such share being the same as his undivided share in the common elements and common surplus appurtenant to his unit.

9. The operation of the condominium shall be by HACIENDA del SOL ASSOCIATION, INC., a corporation not for profit organized under the laws of the State of Florida, which shall fulfill its functions pursuant to the following provisions:

(A) A copy of the Articles of Incorporation of the Association is attached hereto as Exhibit "C", and by this reference made a part hereof.

(B) The Bylaws of the Association shall be the Bylaws of the condominium. A copy of said Bylaws is attached hereto as Exhibit "D" and by this reference made a part thereof.

(C) The Developer and all persons hereafter owning a vested present interest in the fee title to any one of the units shown on the exhibits hereto and which interest is evidenced by recordation of a proper instrument in the public records of Volusia County, Florida, shall automatically be members and their memberships shall automatically terminate when they no longer own such interest.

(D) There shall be a total of fifty (50) votes to be cast by the owners of the condominium units. Such votes shall be apportioned and cast as follows: The owner of each condominium unit (designated as such on the exhibits attached to this Declaration) shall be entitled to cast one (1) vote. Where a condominium unit is owned by the managing non-profit corporation, no vote shall be allowed for such condominium unit. Where a condominium unit is owned by more than one person, all the owners thereof shall be collectively entitled to the vote assigned to such unit and such owners shall, in writing, designate an individual who shall be entitled to cast the vote on behalf of the owners of such condominium unit of which he is a part until such authorization shall have been changed in writing. The term, "owner", as used herein, shall be deemed to include the Developer.

(E) All the affairs, policies, regulations and property of the Association shall be controlled and governed by the

Board of Directors of the Association consisting of seven (7) members, who are all to be elected annually by the members entitled to vote. Each director shall be the owner of a condominium unit (or partial owner of a condominium where such unit is owned by more than one individual), or if a unit is owned by a corporation, any duly elected officer or officers of an owner corporation may be elected a director or directors.

(F) Notwithstanding the duties of the Association to maintain and repair parts of the condominium property, the Association shall not be liable to unit owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by other unit owners or persons.

(G) A member's share in the funds and assets held by the Association may not be assigned, hypothecated or transferred in any manner except as an appurtenance to his unit.

10. Responsibility for the maintenance of the condominium property, and restrictions upon its alteration and/or improvement, shall be as follows:

(A) Units

- (1) The Association shall maintain, repair and replace, at the Association's expense, all portions of a unit, except interior surfaces, contributing to the support of the building containing said unit, which portions shall include, but not be limited to the outside walls of the building and all fixtures on its exterior, boundary walls of the unit, floor and ceiling slabs, load-bearing columns and load-bearing walls, all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services contained in the portions of the unit maintained by the Association, and all such facilities contained within the unit which service a part or parts of the condominium other than the unit within which contained. All incidental damage caused to a unit by such work shall be repaired promptly at the expense of the Association.
- (2) A unit owner shall maintain, repair and replace at his expense all air conditioning and heating equipment, stoves, refrigerators, fans, or other appliances or equipment, including any

fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to his unit and which may now or hereafter be situated in his unit. Such owner shall further be responsible and liable for maintenance, repair and replacement of any and all interior wall, exterior doors, windows, ceiling and floor interior surfaces, painting, decorating and furnishings, and all other accessories which such owner may desire to place or maintain in his unit. Wherever the maintenance, repair and replacement of any items for which the owner of a unit is obligated to maintain, repair or replace at his own 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, except that the owner of such unit shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement. No unit owner or resident of the Condominium shall paint, decorate or otherwise change the appearance of any portion of the exterior of any building without the written consent of the Association and consent of the mortgagees of record. Each unit owner shall promptly report to the Association any defect or need for repairs for which the Association is responsible.

- (3) Except as hereinbefore reserved to Developer, no alteration or addition shall be made to any portion of a unit or building which is to be maintained and repaired by the Association, without first obtaining the written approval of all owners whose units are to be affected and the approval of the Board of Directors of the Association. A copy of plans for any such alteration or addition prepared by an architect licensed to practice in the State of Florida shall be filed with the Association prior to commencement of the work.

(B) Common Elements

- (1) The maintenance and operation of the common elements and any other property or improvements in which the Association owns an interest shall be the responsibility of the Association.
- (2) After completion of the improvements included in the common elements contemplated by this Declaration and the exhibits hereto, there shall be no alteration or further improvement of said common elements without prior written approval of the owners of not less than fifty percent (50%) of the common elements. No such alteration or improvement shall interfere with the

rights of any unit owner without his consent. No assessment for the cost of any such work shall be levied against any institutional investor which acquires title as a result of owning a mortgage upon a Condominium parcel, regardless of whether title is acquired by deed from the mortgagor or through foreclosure proceedings, unless such owner shall approve the alteration or improvement in writing. The portion of any cost not so assessed shall be assessed to the other unit owners in the shares that their shares in the common elements bear to the total common elements less the part owned by the institutional investor or investors.

To facilitate and carry out the obligations of the Association for maintenance, repair and replacement as set forth in this Paragraph 10, there is reserved unto the Association the right to enter in and upon any unit at any reasonable time.

11. The making and collection of assessments against unit owners by the Association for common expenses shall be pursuant to the Bylaws and subject to the following provisions:

(A) The Board of Directors of the Association shall approve annual budgets in advance for each fiscal year and the budgets shall project anticipated income and estimated expenses in sufficient detail to show separate estimates for insurance for fire and extended coverage, vandalism and malicious mischief, for the units and the common property, and public liability insurance for the common property, operating expenses, maintenance expenses, repairs, utilities, replacement reserve, if any, and reasonable operating reserve for the common property. Failure of the Board to include any item in the annual budget shall not preclude the Board from levying an additional assessment in any calendar year for which the budget has been projected.

(B) The portion of the total regular annual assessment for each fiscal year assessed against each unit (and the interest in Lot "X" appurtenant thereto), and all members owning an interest in each unit, (except there shall be no assessment against a unit owned by the Association which is being used or to be used as the Condominium Manager's unit) shall be a sum equal to the percentage

that each unit bears to the common elements as set forth in Exhibit "B" and his share in the common surplus shall be a like percentage.

(C) After adoption of a budget and determination of the annual assessment per unit, the Association shall assess such sum by promptly notifying all owners by delivering or mailing notice thereof to the Voting Member representing each unit at such member's most recent address as shown by the books and records of the Association. One-twelfth (1/12th) of the annual assessment shall be due and payable in advance to the Association on the first day of each month regardless of whether or not members are sent or actually receive a written notice thereof. In addition, the Association shall have the power to levy special assessments against each unit, if necessary, to cover special expenses and shall have the power to levy other special assessments as provided herein which shall be on a percentage basis hereinabove provided.

(D) The record owners of each unit shall be personally liable, jointly and severally, to the Association for the payment of all assessments, regular or special, made by the Association and for all costs of collection of delinquent assessments. In the event assessments against a unit are not paid within sixty (60) days after their due date, HACIENDA del SOL ASSOCIATION, INC. may elect to declare all past due installments of maintenance and all installments to become due during the remainder of such fiscal year then due and payable in full, as if such aggregate sum had originally been stipulated to so become due and payable in full, and the Association shall have the right to foreclose its lien for such assessments.

(E) Assessments that are unpaid for over thirty (30) days after due date shall bear interest at the rate of ten percent (10%) per annum until paid.

(F) The Association shall have a lien on each condominium parcel (the term "Condominium Parcel" shall include the

condominium unit and the interest in the common elements) for any unpaid assessments and interest thereon which has been assessed against the unit owner of such condominium parcel. The said lien shall be effective from and after the time of recording in the public records of Volusia County, Florida, of a claim of lien stating the description of the condominium parcel, the name of the record owner, the amount due and the date when due, and the said lien shall continue in effect until all sums secured by the lien shall have been fully paid. All such claims of lien shall be signed and verified by an officer or agent of the Association. Where any such lien shall have been paid in full, the party making payment thereof shall be entitled to receive a satisfaction of such lien in such form that it may be recorded in the public records of Volusia County, Florida. Any and all such liens herein provided for shall be subordinate to the lien of a mortgage or other lien recorded prior to the time of recording of the claim of lien. The Board of Directors may take such action as it deems necessary to collect assessments by personal action or by enforcing and foreclosing said lien and may settle and compromise the same if in the best interests of the Association. The delinquent owner shall pay all costs, including reasonable attorneys' fees, for filing any action or suit enforcing and foreclosing a lien, and the lien shall be deemed to cover and secure such costs and fees. The Association shall be entitled to bid at any sale held pursuant to a suit to foreclose an assessment lien and to apply as credit against said bid all sums due the Association which are covered by the lien enforced. In the event any legal proceedings are instituted to foreclose a lien for assessments, the Association upon bringing such proceedings shall be entitled as a matter of right to the appointment of a receiver, who shall be entitled immediately to take possession of said unit under the supervision of the Court conducting the foreclosure proceeding, and in the event the receiver allows the

owner of the unit to remain on the subject property, the owner shall pay a reasonable rental for the unit to the receiver for the benefit of the Association and the owner, said rental to be applied first to the payment of delinquent assessment, Court costs, attorneys' fees and to any mortgagee of record to the extent deemed necessary to cure any delinquency or default, and any other fees, and then to the owner.

(G) As to priority between the lien of a recorded mortgage and the lien for any assessment, the lien for an assessment shall be subordinate and inferior to any recorded institutional first mortgage, regardless when said assessment was due, but not to any other mortgage. For the purpose of this instrument, an "institutional first mortgage" shall be defined as a first mortgage originally executed and delivered to a bank, savings and loan association, insurance company or real estate investment trust authorized to transact business in the State of Florida. Upon the recordation of the Certificate of title issued pursuant to the foreclosure of an institutional first mortgage, any lien for assessments due and payable prior to such recordation shall be deemed abolished, but the lien for assessments due and payable after the recordation of said Certificate shall not be impaired and shall be effective as to the grantee of such Certificate of Title.

(H) Any person who acquires an interest in a unit, except an institutional first mortgagee, shall be personally liable and jointly and severally liable with the grantor, for all unpaid assessments up to the time of the transfer of ownership. In the event a member exercises his rights of first refusal or redemption, hereinafter provided, said member shall be liable for the unpaid assessments against the unit and shall have the right to deduct such sums from the First refusal or redemption price paid to the seller or transferor.

(I) Any person purchasing or encumbering a unit shall have the right to rely upon any statement made in writing by a corporate officer regarding assessments against units which have already been made and which are due and payable to the Association, and the Association and the members shall be bound thereby. No action or suit shall be brought to enforce by foreclosure any lien arising under this Declaration after two (2) years from the due date of any assessment therefor.

(J) The Association may at any time require owners to maintain a minimum balance on deposit with the Association to cover future assessments. Said deposit shall be uniform and shall in no event exceed six (6) months' assessment.

(K) Anything in this Declaration or its exhibits to the contrary notwithstanding, the provisions of said Declaration and exhibits attached hereto shall not become applicable or binding insofar as the management of the condominium or the levying of assessments is concerned (except for the non-liability of institutional first mortgagees for past due assessments, as set forth in Paragraph 11(G), until actual management of the condominium project is delivered and turned over by the Developer to the non-profit corporation mentioned hereinabove, which shall not be later than December 31, 1973; provided, however, if on said date the Developer has not deeded to individual purchasers more than eighty percent (80%) of the condominium parcels, it may, at its option, continue to manage the condominium project until such percentage of condominium parcels have been deeded to individual purchasers. While the Developer shall retain management of the condominium project, it shall collect all assessments, the same being payable to the Developer during this interim, and the Developer shall be assessed on unsold units only for that part of the common expenses for maintenance and operations which are in excess of the sums collected by assessments against the owners

of other units. During this interim the Developer will not be liable for any accounting of any nature concerning these maintenance funds or their use or application and may use any portion of the same for capital improvements, so long as said improvements are to the condominium project. The Developer shall, during this interim, have a lien on each condominium parcel for any unpaid assessments and interest thereon, against the unit owner and condominium parcel, and have the same remedies of personal action and/or foreclosure of said lien to perfect collection.

12. The use of the condominium property and other property and improvements in which the Association owns an interest shall be in accordance with the following provisions so long as the condominium exists and the buildings containing the condominium units remain in useful condition upon the land:

(A) Each of the units shall be occupied only by a single family, its servants and guests, as a residence and for no other purpose. Except as hereinbefore reserved to Developer, no unit may be divided or subdivided into a smaller unit, nor any portion thereof sold or otherwise transferred without first amending this Declaration as hereinabove provided to show the changes to be effected in the units. Any undivided interest in the common property is hereby declared to be appurtenant to each unit and such undivided interest shall be conveyed, devised, encumbered or otherwise included with the unit even though such interest is not expressly mentioned or described in the conveyance, or other instrument. Any instrument, whether a conveyance, mortgage or otherwise, which describes only a portion of the space within any unit shall be deemed to describe the entire unit owned by the person executing such instrument and an interest in the entire area described as Lot "X". The Developer hereby, and each subsequent owner of any interest in a unit and in the common property, by acceptance of a conveyance or any instrument transferring an interest, waives the right of partition of any interest in the

Common Property under the laws of the State of Florida as it exists now or hereinafter until this condominium project is terminated according to the provisions hereof or by law. Any owner may freely convey an interest in a unit together with an undivided interest in the common property subject to the provisions of this Declaration. The Developer hereby reserves the right to remove any party walls between any condominium units in order that the said units may be used together as one integral unit subject to the written consent of any institutional mortgagee having an interest therein. All assessments and voting rights, however, shall be calculated as if such units were as originally designated on the exhibits attached to this Declaration, notwithstanding the fact that the several units are units are used as one.

(B) The common elements and any property in which the Association owns an interest shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment and use of the residents of the condominium.

(C) No nuisances shall be allowed or permitted upon the condominium property or any property in which the Association owns an interest, nor shall any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the condominium property or any property in which the Association owns an interest by the residents thereof be allowed or permitted. All parts of the condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed or permitted to accumulate nor any fire hazard allowed or permitted to exist. No unit owner shall make or permit any use of his unit or make or permit any use of the common elements or any property in which the Association owns an interest which will increase the cost of insurance on the property.

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(D) No immoral, improper, offensive or unlawful use shall be made of the condominium property or any property in which the Association owns an interest, nor any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed.

(E) After approval by the Association as hereinafter required, units may be rented, provided the occupancy is only by a single family, and provided further that all requirements of Paragraph 12 above are met. No rooms or parts of a unit may be rented, and no transient tenants may be accommodated.

(F) Reasonable regulations concerning the use of the condominium property and other property in which the Association owns an interest may be made and amended from time to time by the Association in the manner provided in its Articles of Incorporation and Bylaws. Copies of such regulations and amendments thereto shall be furnished by the Association to all unit owners, mortgagees of record and residents of the condominium upon request.

(G) Until Developer has completed all of the contemplated improvements and closed the sales of all the units in the condominium, neither the unit owners, contract purchasers nor the Association, shall interfere with the completion of the contemplated improvements or the sale of the units. Developer may make such use of any unsold units and common areas as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, showing of the property, display of signs, and storage of materials.

13. In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the units, the transfer of units by any owner other than the Developer shall be subject to the following provisions as long as the condominium exists and the buildings containing the condominium units

remain in useful condition upon the land, which provisions each unit owner covenants to observe:

(A) Transfers subject to approval:

- (1) No unit owner may dispose of a unit or any interest in a unit by sale without approval of the Association except to his or her spouse or another member of the Association.
- (2) No unit owner may dispose of a unit or any interest in a unit by lease without approval of the Association except to his or her spouse or another member of the Association.
- (3) If any unit owner shall acquire his title by gift, the continuance of his ownership of his unit shall be subject to the approval of the Association.
- (4) If any unit owner shall acquire his title by devise or inheritance, the continuance of his ownership of his unit shall be subject to the approval of the Association.
- (5) If any unit owner shall acquire his title by any manner not considered in the foregoing subsections, the continuance of his ownership of his unit shall be subject to the approval of the Association.

(B) The approval of the Association that is required for the transfer or ownership of units shall be obtained in the following manner:

(1) Notice to Association.

- (a) A unit owner intending to make a bona fide sale of his unit or any interest in it shall give to the Association notice of such intention in writing, 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 unit owner's option may include a demand by the unit owner that the Association furnish a purchaser of the unit if the proposed purchaser is not approved; and if such demand is made, the notice shall be accompanied by an executed copy of the proposed contract to sell.
- (b) A unit owner intending to make a bona fide lease of his unit or any interest in it shall give to the Association notice of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as the Association may reasonably require and an executed copy of the proposed lease.

- (c) A unit owner who has obtained his title by gift, devise or inheritance or any other manner not previously considered, shall give to the Association notice of the acquiring of his title, together with such information concerning the unit owner as the Association may reasonably require, and a certified copy of the instrument evidencing the owner's title.
 - (d) If the above required notice to the Association is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a unit, the Association, at its election and without notice, may approve or disapprove the transaction or ownership. If the Association disapproves the transaction or ownership, the Association shall proceed as if it had received the required notice on the date of such disapproval.
- (2) Certificate of approval.
- (a) 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, which shall be recorded in the Public Records of Volusia County, Florida, at the expense of the purchaser.
 - (b) If the proposed transaction is a lease, 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, which, at the election of the Association, shall be delivered to the lessee, or shall be recorded in the Public Records of Volusia County, Florida, at the expense of the lessee.
 - (c) If the unit owner giving notice has acquired his title by gift, devise or inheritance or any other manner, then within thirty (30) days after receipt of such notice and information, the Association must either approve or disapprove the continuance of the unit owner's ownership of his unit. If approved the approval shall be stated in a certificate executed by the President and Secretary of the Association, which shall be recorded in the Public Records of Volusia County, Florida, at the expense of the unit owner.
- (3) Inasmuch as the condominium may be used only for residential purposes and a corporation cannot

occupy an apartment for such use, if the unit owner or purchaser of a unit is a corporation, the approval of ownership by the corporation may be conditioned by requiring that all persons occupying the unit be approved by the Association.

(C) If the Association shall disapprove a transfer or ownership of a unit, the matter shall be disposed of in the following manner:

- (1) If the proposed transaction is a sale and if the notice of sale given by the unit owner shall so demand, then within thirty (30) days after receipt of such notice and information the Association shall deliver or mail by registered mail to the unit owner an agreement to purchase the unit concerned by a purchaser approved by the Association who will purchase and to whom the unit owner must sell the unit upon the following terms:
 - (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 arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association, who shall base their determination upon an average of their appraisals of the unit; and a judgment of specific performance of the sale may be entered in any court of competent jurisdiction. The expenses of the arbitration shall be paid by the purchaser.
 - (b) The purchase price shall be paid in cash, provided however, that if there is an already existing institutional mortgage encumbering the subject unit, then the purchaser, if acceptable to the institutional mortgagee, may assume the institutional mortgage and pay cash to the seller for the latter's equity.
 - (c) The sale shall be closed within thirty (30) days after the delivery or mailing of the agreement to purchase, or within ten (10) days after the determination of the sale price if such is by arbitration, whichever is the later.
 - (d) A certificate of the Association executed by its President and Secretary, approving the purchaser shall be recorded in the Public Records of Volusia County, Florida, at the expense of the purchaser.

- (e) If the Association shall fail to provide a purchaser upon the demand of the unit owner in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval the proposed transaction shall be deemed to have been approved by the Association and the Association shall furnish a certificate of approval as elsewhere provided, which shall be recorded in the Public Records of Volusia County, Florida, at the expense of the purchaser.
- (2) If the proposed transaction is a lease, the unit owner shall be advised of the disapproval in writing, and the lease shall not be made.
- (3) If the unit 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 unit owner of the notice and information required to be furnished, the Association shall deliver or mail by registered mail to the unit owner an agreement to purchase the unit concerned by a purchaser approved by the Association who will purchase and to whom the unit owner must sell the unit upon the following terms:
 - (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. In the absence of agreement as to price, the price shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers 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, provided however, that if there is an already existing institutional mortgage encumbering the subject unit, then the purchaser, if acceptable to the institutional mortgagee, may assume the institutional mortgage and pay cash to the seller for the latter's equity.
 - (c) The sale shall be closed within ten (10) days following the determination of the sale price.
 - (d) A certificate of the Association executed by its President and Secretary approving the

purchaser shall be recorded in the Public Records of Volusia County, Florida, at the expense of the purchaser.

- (e) If the Association shall fail to provide a purchaser as required by this instrument, or if a purchaser furnished by the Association shall default in his agreement to purchase, then, notwithstanding the disapproval such ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided, which shall be recorded in the Public Records of Volusia County, Florida, at the expense of the unit owner.

(D) No unit owner may mortgage his unit nor any interest in it without the approval of the Association except to a bank, life insurance company, savings and loan association, real estate investment trust or other institutional lender or institutional investor, or to a vendor to secure a portion or all of the purchase price. The approval of any other mortgage may be upon conditions determined by the Association or may be arbitrarily withheld.

(E) The foregoing provisions of this Paragraph 13 shall not apply to a transfer to or purchase by a bank, life insurance company, savings and loan association, real estate investment trust or other institutional lender or institutional investor that acquires its title as the result of owning a mortgage upon the unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor, his successors or assigns, or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by a bank, life insurance company, savings and loan association, real estate investment trust or other institutional lender or institutional investor that so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to a unit at a duly advertised public sale with open bidding provided by law, such as, but not limited to, execution sale, foreclosure sale, judicial sale or tax sale.

(F) Any sale, mortgage or lease not authorized pursuant to the terms of this Declaration shall be void unless

subsequently approved by the Association.

(G) Nothing contained in this Paragraph 13 shall preclude or prevent the Association from itself being a purchaser in lieu of furnishing a purchaser as provided for herein; provided however, such purchase by the Association shall be on the same terms and conditions which would have to be met by any other purchaser hereunder.

14. Each unit owner and every resident of the condominium shall be subject to and shall comply with the terms and conditions of this Declaration and the exhibits thereto and all regulations from time to time adopted pursuant to said documents, and all amendments thereto. Failure of a unit owner or resident of the condominium to comply with the terms and conditions of said documents or regulations shall entitle the Association and/or other unit owners to institute an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof in addition to the remedies provided by The Condominium Act and by law. Furthermore,

(A) Each unit owner shall be liable for the expense of any maintenance, repair or replacement of the condominium property or any property in which the Association owns an interest rendered necessary by his willful action or negligence or by the willful action or negligence of any member of his family or their guests, employees, agents or lessees, but only to the extent that such expense is not defrayed by the proceeds of insurance carried by the Association. Each unit owner shall pay to the Association the amount of any increase in its insurance premiums occasioned by the use, misuse, occupancy or abandonment of his unit or its appurtenances, or of the common elements or any property in which the Association owns an interest, by said owner or any resident of the unit.

(B) In any proceeding arising out of an alleged failure of a unit owner or resident of the condominium to comply with the

aforementioned documents or regulations, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorneys' fees.

(C) The failure of the Association or any unit owner to enforce any covenant, restriction or other provision of the aforementioned documents or regulations shall not constitute a waiver of the right to do so thereafter.

(D) Every unit owner shall further conform to and abide by the Bylaws and uniform rules and regulations in regard to the use of units and common property which may be adopted in writing from time to time by the Board of Directors of the Association, and to see that all persons using his property shall do likewise.

(E) An owner shall allow the Board of Directors or the agents and employees of the Association to enter any unit for the purpose of maintenance, inspection, repair, replacement of the improvements within units or the common property or in case of emergency threatening units or the common property, to determine compliance with these Restrictions, Reservations, Covenants, Conditions and Easements and the Bylaws of the Association.

(F) An owner shall show no sign, advertisement or notice of any type on the common property or his unit and erect no exterior antennas and aerials except as provided under uniform regulations promulgated by the Association. This sub-paragraph shall not apply to the Developer and/or institutional first mortgagees.

15. Except as reserved to the Developer in Paragraph 5 hereof, this Declaration of Condominium may be amended only in the following manner:

(A) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the members of the Association at which a proposed amendment is to be considered.

(B) A resolution for the adoption of a 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 in person or by proxy at the meeting considering the amendment may express their approval or disapproval in writing, provided such approval or disapproval is delivered to the Secretary at or prior to the meeting. Approval of a proposed amendment must be either by:

- (1) Not less than seventy-five percent (75%) of the entire membership of the Board of Directors and not less than seventy-five percent (75%) of the votes of the members of the Association voting at the particular meeting; or
- (2) Not less than seventy-five percent (75%) of the votes of the entire membership of the Association; or
- (3) All of the Directors (not just all of the Directors present), until the first election of the Board of Directors provided the amendment does not increase the number of units nor alter the boundaries of the common elements.

(C) No amendment may be adopted which discriminates against any unit owner or against any unit or class or group of units, unless the unit owners so affected consent thereto, and no amendment shall change or alter any unit or the share in the common elements appurtenant thereto, nor increase the unit owner's share of the common expenses, unless the record owner of the unit concerned and all record owners of the mortgages on such unit shall join in the execution of the amendment. Neither shall an amendment make any change in Paragraph 16 hereof (dealing with insurance), nor in Paragraph 17 hereof (dealing with repair and reconstruction after casualty), unless the record owners of all mortgages upon the condominium property shall join in the execution of the amendment.

(D) Paragraph 18 of this Declaration (dealing with termination of the condominium) may not be amended except upon written approval of all record owners of units in the condominium

and all record owners of liens or mortgages on the condominium property.

(E) A copy of each amendment adopted as hereinbefore provided shall be attached to a certificate certifying that said amendment was duly adopted, which certificate shall be executed by the officers of the Association with the formalities of a deed. Said copy and certificate shall be recorded by the Association in the Public Records of Volusia County, Florida, and an amendment shall be effective when said documents are so recorded.

16. The casualty and liability insurance which shall be carried upon the condominium property and the property of the Association and the unit owners shall be governed by the following provisions:

(A) All insurance policies covering the condominium property and any property in which the Association owns an interest shall be purchased by the Association for the benefit of the Association and the unit owners and their mortgagees as their respective interests may appear, and provisions shall be made for the issuance of mortgagee endorsements to the mortgagees of the unit owners. Unit owners may obtain insurance coverage at their own expense upon their real and personal property and for their personal liability.

(B) Coverage.

- (1) All buildings and improvements upon the condominium property and any property in which the Association owns an interest, and all personal property included in the common elements, shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, as determined annually by the Board of Directors of the Association. Such coverage shall afford protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement and such other risks as from time to time shall be customarily covered with respect to buildings and improvements similar in construction, location and use as the buildings and improvements on the land, including, but not limited to, vandalism and malicious mischief.
- (2) Public liability insurance shall be purchased in such amounts and with such coverage as shall,

from time to time, be required by the Board of Directors of the Association, including but not limited to, hired automobile and non-owned automobile coverage, and cross liability endorsements to cover liability of the unit owners as a group to a single unit owner.

- (3) Such workmen's compensation coverage as may be required by law.
- (4) Such other insurance as the Board of Directors may from time to time deem to be necessary.

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

(D) All insurance policies purchased by the Association shall provide that all proceeds paid as a result of property loss or damage shall be paid to the Association in trust, nevertheless, for the purposes and parties as set forth in this Paragraph 16. Proceeds paid on account of damage or loss to the common elements or to property or improvements in which the Association owns an interest shall be held by the Association for the benefit of the unit owners and their mortgagees, with each unit owner having an undivided share therein, such share being the same as the undivided share in the common elements appurtenant to his unit. Proceeds paid on account of damage or loss to all or a portion of the common elements surrounding a given unit or units shall be held for the benefit of the owners of units, the surrounding or abutting common elements of which were so damaged, and their respective mortgagees as their interest may appear, in proportion to the cost of repairing or reconstructing such damaged common elements as they relate to the particular unit or units affected by such damage. Proceeds paid on account of total destruction of all buildings containing condominium units in HACIENDA del SOL shall be held for the benefit of each unit owner and his mortgagee as their respective interests may appear, in the proportion of the undivided share in the common elements appurtenant to his unit. In the event that a mortgage endorsement has been issued with respect to a unit, the share of the unit owner shall be held by the Association in trust for the mortgagee and the unit owner as

their respective interests may appear.

(E) Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the unit owners in the following manner:

- (1) If the loss or damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be used to defray the cost of such repair or reconstruction. Any proceeds remaining after the cost of such work has been defrayed shall be distributed to all unit owners and their mortgagees as their respective interests may appear, in the proportion of the undivided share in the common elements appurtenant to their respective units, remittances to each of such unit owners and their respective mortgagees being payable jointly to them. This paragraph constitutes a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.
- (2) If it is determined in the manner hereinafter provided that the damage for which the proceeds are paid shall not be repaired or reconstructed, the proceeds shall be distributed to the unit owners and their mortgagees as their respective interests may appear in the proportion of the undivided share in the common elements appurtenant to their respective units, remittances to each of such unit owners and their respective mortgagees being payable jointly to them. This paragraph constitutes a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.

(F) The Association is irrevocably appointed agent for each unit owner and for each owner of a mortgage or other lien upon any unit and for each owner of any other interest in the condominium property or any property in which the Association owns an interest, to adjust all claims arising under insurance policies purchased by the Association, and to execute and deliver releases upon the payment of such claims.

17. If any part of the condominium property or any property in which the Association owns an interest shall suffer loss or damage by casualty, whether or not it shall be repaired or reconstructed shall be determined in the following manner:

(A) If the damaged property is a part of the common elements or any property in which the Association owns an interest,

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

(B) If the damaged properties are buildings containing condominium units, the damage shall be repaired or reconstructed if units to which twenty percent (20%) or more of the common elements of HACIENDA del SOL are appurtenant are found by the Board of Directors of the Association to be tenantable, unless within sixty (60) days after the loss or damage it is determined in the manner hereinafter provided that the condominium shall be terminated. The damaged property will not be repaired or reconstructed if units to which more than eighty percent (80%) of the common elements of HACIENDA del SOL are appurtenant are found by the Board of Directors to be not tenantable, and in such case the condominium will be terminated without agreement as hereinafter provided unless within sixty (60) days after the loss or damage the owners of eighty percent (80%) of the mortgagees of record agree in writing, to such repair or reconstruction.

(C) Any repair or reconstruction must be substantially in accordance with the plans and specifications for the original improvement; or if not, then according to plans and specifications approved by the Board of Directors of the Association and, if the damaged property is a building containing condominium units, by the owners of all units and mortgagees of record, the surrounding or abutting common elements of which were so damaged, which approval shall not be unreasonably withheld.

(D) If the loss or damage is only to those parts of a unit or units for which the responsibility of maintenance and repair is that of the unit owner, then the unit owner shall be responsible for repair and reconstruction. In all other instances the responsibility for repair and reconstruction after casualty shall be that of the Association.

(E) Immediately after a determination is made to repair or reconstruct damage to property for which the Association has the responsibility for repair and reconstruction, the Association shall obtain reliable and detailed estimates of the cost of the repair or reconstruction.

(F) If the insurance proceeds received by the Association are insufficient to defray the estimated cost of repair of the common elements or any property in which the Association owns an interest, or if at any time during repair or reconstruction, the funds for payment of the costs of repair or reconstruction are insufficient, assessments shall be made against all unit owners in the proportion of the undivided share in the common elements appurtenant to their respective units, in sufficient amount to provide the necessary funds.

18. The condominium may be terminated in the following manner:

(A) If it is determined in the manner hereinbefore provided that a building or buildings containing condominium units shall not be repaired or reconstructed because of damage or destruction, the condominium will be terminated without agreement.

(B) The condominium may be terminated at any time upon written approval of all record owners of units in the condominium and all record owners of liens or mortgages on the condominium property. Said approval shall be delivered to the Secretary of the Association by each such owner, lienor or mortgagee, and the Association shall then prepare, execute with the formalities required for a deed, and cause to be recorded in the Public Records of Volusia County, Florida, a document terminating the condominium, together with a certificate executed by the officers of the Association certifying that unanimous consent of all such owners, lienors and mortgagees has been received by it in accordance with the terms of this Declaration. The termination shall become effective when said document and certificate have been so recorded.

(C) The Board of Directors of the Association shall then sell all of the property at public or private sale upon terms approved in writing by all of the institutional first mortgagees. Upon the sale of said property the costs, fees and charges for effecting said sale, the cost of liquidation and dissolution of the Association, and all obligations incurred by the Association in connection with the management and operation of the property up to and including the time when distribution is made to the unit owners, shall be paid out of the proceeds of said sale, and the remaining balance (hereinafter referred to as "net proceeds of sale") shall be distributed to the unit owners in direct proportion that the original acquisition price of the respective units bear to the aggregate sales price for all condominium units, together with the common elements appurtenant thereto, which comprise HACIENDA del SOL.

(D) Upon the determination of each unit owner's share, as above provided for, the Association shall pay out of each unit owner's share all mortgages and other liens encumbering said unit in accordance with their priority and, upon such payment being made all mortgagees and lienors shall execute and record satisfactions or releases of their liens against said unit or units, regardless of whether the same are paid in full. Thereupon, the Directors of the Association shall proceed to liquidate and dissolve the Corporation, and distribute the remaining portion of each distributive share, if any, to the owner or owners entitled thereto. If more than one person has an interest in a unit, the Association shall pay the remaining distributive share allocable to said unit to the various owners of such unit, excepting that if there is a dispute as to the validity, priority or amount, of mortgages or liens encumbering a unit, then payment shall be made to the owner and/or owners of such unit and to the owners and holders of the mortgages and liens encumbering said unit.

19. No breach of any of the provisions contained herein shall defeat or adversely affect the lien of any mortgage at any time made in good faith and for a valuable consideration upon said property, or any part thereof, and made by a bank, savings and loan association, real estate investment trust or insurance company authorized to transact business in the State of Florida and engaged in the business of making loans constituting a first lien upon real property, but the rights and remedies herein granted to the Developer, the Association, and the owner or owners of any part of said condominium, may be enforced against the owner of the portion of said property subject to said mortgage, notwithstanding such mortgage. The purchaser at any sale upon foreclosure shall be bound by all of the provisions herein contained, unless said purchaser be an institutional first mortgagee which had a mortgage on said unit at the time of the institution of said foreclosure action, or the Developer.

20. There are Limited Common Elements appurtenant to each of the units in this condominium, as shown and reflected by the floor and plot plans, such as balconies and patios directly accessible only through an individual unit. These Limited Common Elements are reserved for the use of the units appurtenant thereto, to the exclusion of other units, and there shall pass with a unit, as appurtenant thereto, the exclusive right to use the Limited Common Elements so appurtenant. Expenses of maintenance, repair or replacement relating to such Limited Common Elements shall be treated as and paid for as a part of the common expenses of the Association, except, however, the expense of maintenance, repair, or replacement made necessary by the act of any unit owner, shall be borne by said unit owner.

21. Whenever notice is required under the terms of this Declaration of Condominium such notice shall be given in writing to the Secretary of the Association or to the unit owner, as the case may be, by personal delivery to such Secretary or unit owner

or by depositing such notice with postage prepaid in the United States mails, registered or certified, with return receipt requested, addressed to the Association or to a unit owner as follows:

Association: HACIENDA del SOL
c/o Ida E. Pankey
4201 South Atlantic Avenue
New Smyrna Beach, Florida

Unit Owner: as the Unit Owner's address appears on the books of the association.

Mortgagee: as the address of the mortgagees appear on the books of the association.

Notice served on the Secretary in the aforesaid manner shall constitute notice to the Association.

22. The invalidity in whole or in part of any covenant or restriction, or any paragraph, subparagraph, sentence, clause, phrase, word or other provision of this Declaration or any exhibit thereto shall not affect the validity of the remaining portions of said documents.

23. These restrictions, reservations, covenants, conditions and easements, shall be binding upon and inure to the benefit of all property owners and their grantees, heirs, personal representatives, successors and assigns, and all parties claiming by, through or under any member.

IN WITNESS WHEREOF, the Developer has executed this Declaration the day and year first above written.

Signed, sealed and delivered
in the presence of:

CORNETT ENTERPRISES, INC.

[Signature]

By: Ida E. Pankey
Ida E. Pankey, President.

[Signature]
As to Developer

ATTEST: Jerry E. Coone

(CORPORATE SEAL)

STATE OF FLORIDA

COUNTY OF ORANGE

I HEREBY CERTIFY that on this day, before me, a notary public, personally appeared IDA E. PANKEY and JERRY E. COONE, well known to me to be the President and Secretary respectively of

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CORNETT ENTERPRISES, INC., and they severally acknowledged executing the foregoing instrument in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State last aforesaid on this _____ day of _____, 197__.

Notary Public, State of Florida at
Large. Notary Public, State of Florida at Large

My Commission Expires July 16, 1974

My Commission expires:

(SEAL)

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This instrument was prepared by:
THOMAS J. TEPPER
ANDREWS, SMITH, TEPPER & KEMP, P.A.
Attorneys at Law
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