

STATE OF ALABAMA  
BALDWIN COUNTY

STATE OF ALABAMA,  
BALDWIN COUNTY  
I certify that this instrument was filed on

DECLARATION OF CONDOMINIUM  
OF  
BUENA VISTA CONDOMINIUM  
Gulf Shores, Alabama

DEC 12 1983 3:41 PM

and that no tax was collected. Recorded in *Misc*  
Book *47*  
Page *117-42* Judge of Probate  
D.P. *1* Index \$ By *OR*

THIS IS A DECLARATION OF CONDOMINIUM made December 9, 1983, by Altmyer Development, Inc., a corporation organized and existing under the laws of the State of Alabama, for itself, its successors, grantees and assigns.

ARTICLE ONE

SUBMISSION TO CONDOMINIUM OWNERSHIP - The purpose of this declaration is to submit the lands herein described and the improvements heretofore and hereafter constructed thereon to the condominium form of ownership and use in the manner provided by Sections 35-8-1 to 35-8-22 CODE OF ALABAMA 1975, hereinafter referred to as the Alabama Condominium Ownership Act.

ARTICLE TWO

NAME AND ADDRESS OF CONDOMINIUM - The name by which the condominium shall be known is Buena Vista Condominium. Its address is West Beach Boulevard (East of the Lagoon Pass Bridge) Gulf Shores, Alabama.

ARTICLE THREE

THE LANDS - The lands owned by the Developer which are hereby submitted to the condominium form of ownership are located in the Town of Gulf Shores, Baldwin County, Alabama, and are particularly described as follows:

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Lots 1, 2, 19 and 20 in Block 2, Unit No. 1 of Gulf Shores, Alabama; and also all that parcel of land lying between Lots 1 and 2 and the Gulf of Mexico, bounded on the East by a continuation of the East line of said Lot 2 and bounded on the West by a continuation of the West line of said Lot 1, in a Southeastwardly direction to the Gulf of Mexico, all in Block 2, Unit 1 of Gulf Shores, in Baldwin County, Alabama, according to the Plat there of recorded in the office of the Probate Judge in Map Book 1, Page 148.

#### ARTICLE FOUR

(A) BUILDINGS AND GROUNDS - Buena Vista Condominium is being developed according to plans and specifications on file in the Developer's office. When completed, the engineering certification drawings required by law will be filed in the Probate Office of Baldwin County Alabama. Buena Vista Condominium consists of thirty private condominium units housed in one six story concrete building, on pilings. The building contains six living levels with five private individual condominium units on each living level. Each living level contains two three bedroom condominium units and three two bedroom condominium units.

(1) THREE BEDROOM UNITS - There are twelve three bedroom individual condominium units, two located on each of the six living levels. All three bedroom units are more or less identical in size and layout, except for minor variations in dimensions as (will be) shown on the engineer's certification drawings. Each three bedroom unit contains three bedrooms, two baths, living room, foyer, private balcony, smoke detector, kitchen with built in range with hood, refrigerator with ice maker, dishwasher, garbage disposal, trash compactor, and separate laundry closet with washer and dryer.

(2) TWO BEDROOM UNITS - The eighteen two bedroom private

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individual condominium units, three located on each of the six living levels. All two bedroom units are more or less identical in size and layout, except for minor variations in dimensions as (will be) indicated on the engineer's certification drawings. Each two bedroom unit contains two bedrooms, two baths, living room, private balcony, smoke detector, kitchen with built in range with hood, dishwasher, refrigerator with ice maker, garbage disposal, and separate laundry closet with washer and dryer.

(3) In addition to the thirty private individual condominium units, Buena Vista Condominium consists of stairways and corridors, planted areas and landscaping, driveways, storage and maintenance area, office, and offstreet automobile parking spaces and areas, all located substantially as (will be) shown on the engineer's certification drawings.

(B) THE PRIVATE UNIT BOUNDARIES - Each private individual condominium unit (element) includes that part of the building in which the unit is located as shown on the engineer's certification drawings. Each private unit proper is bounded or delimited as follows:

1. The upper boundary shall be the plane of the lower surfaces of the ceilings.
2. The lower boundary shall be the plane of the upper surfaces of the floor, exclusive of carpet, tile or other floor covering.
3. The vertical boundaries shall be the interior planes of the interior walls bounding the unit, the outer planes of unit access doors, the outer planes of unit windows, and the interior planes of the exterior walls bounding the unit, except where broken as indicated

above by windows or doors. Where there is a balcony attached to the building serving only a single unit, that unit's boundaries shall extend to include all of such balcony and all structures and fixtures thereon.

4. Where fixtures serving only one individual unit are installed partially within and partially without the planar boundaries of the unit as defined above, the entire fixture shall be deemed to be fully within the unit it serves and wholly subject to the control of the owner of the unit so served.

5. Each private individual condominium unit includes its own air conditioning and heating and water heating apparatus, but does not include the wires or pipes connected thereto, whether or not within the unit boundaries as described immediately above.

(C) THE COMMON ELEMENTS - The common elements of Buena Vista Condominium consist of the entire condominium property, including all parts of the buildings other than the private condominium units and include, by way of example but not by way of limitation, the following, subject to the conditions noted in 8, below:

1. The land on which the buildings and the other improvements are located.

2. All foundations, pilings, slabs, columns, girders, beams and supports.

3. All buildings and structures not containing private individual condominium units and, with respect to buildings containing private individual condominium units, the following: All exterior walls of such buildings extending, in the case of exterior walls bounding private individual condominium units, from the outermost

plane of the wall inward to the wall's interior plane; all walls and partitions separating private individual condominium units from walkways, entranceways, corridors, stairways, service areas, and other units; and all floors and ceilings outward of the planes of their respective interior surfaces.

4. Roofs, walkways, entranceways, stairs, and stairways.

5. Grounds, yards, gardens, recreation and community facilities, swimming pool, pier, service areas, service facilities, parking spaces and areas, and driveways and driveway areas.

6. All facilities for services and utilities, including all pipes, conduits, ducts, wires, the plumbing network, the wiring network and the sewer network, whether located within common areas, within units or partially within each.

7. All other parts of the condominium property and all apparatus, facilities and installations for common use or necessary or convenient to the existence or safety of the condominium.

8. The management of Buena Vista Condominium Owners' Association, Inc., shall have a right of access, during reasonable business hours and upon reasonable prior notice (except that there is no limitation on such access during emergencies) for the purpose of inspecting, maintaining and repairing the common elements (wiring, plumbing, sewer, heating and cooling networks, common walls, structural members and exterior walls) located within, or adjacent to, any of the units or elsewhere in the condominium.

(D) IDENTIFICATION OF UNITS - The thirty private individual condominium units are numbered so that the first digit corresponds to the living level in which the unit is located. The last two digits of

each unit number indicates the postion of the unit within that living level. All units on each living level are numbered consecutively starting with the southernmost units and proceeding in a northerly direction until the northernmost unit is reached.

(1) FIRST LIVING LEVEL UNITS - The five units on the first living level are designated, from South to North, 101, 102 (unit 102 is adjoining and immediately West of unit 101), then turning in a northerly direction, 103, 104, and 105. On the first living level, units 101 and 102 are three bedroom units, and units 103, 104, and 105 are two bedroom units.

(2) SECOND LIVING LEVEL UNITS - The five units on the second living level are designated, from South to North, 201, 202 (unit 202 is adjoining and immediately West of unit 201), then turning in a northerly direction, 203, 204, and 205. On the second living level, units 201 and 202 are three bedroom units, and units 203, 204, and 205 are two bedroom units.

(3) THIRD LIVING LEVEL UNITS - The five units on the third living level are designated, from South to North, 301, 302 (unit 302 is adjoining and immediately West of unit 301), then turning in a northerly direction, 303, 304, and 305. On the third living level, units 301 and 302 are three bedroom units, and units 303, 304, and 305 are two bedroom units.

(4) FOURTH LIVING LEVEL UNITS - The five units on the fourth living level are designated, from South to North, 401, 402 (unit 402 is adjoining and immediately West of unit 401), then turning in a northerly direction, 403, 404, and 405. On the fourth living level, units 401 and 402 are three bedroom units, and units 403, 404,

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and 405 are two bedroom units.

(5) FIFTH LIVING LEVEL UNITS - The five units on the fifth living level are designated, from South to North, 501, 502 (unit 502 is adjoining and immediately West of unit 501), then turning in a northerly direction, 503, 504, and 505. On the fifth living level, units 501, and 502 are three bedroom units, and units 503, 504, and 505 are two bedroom units.

(6) SIXTH LIVING LEVEL UNITS - The five units on the sixth living level are designated, from South to North, 601, 602 (unit 602 is adjoining and immediately West of unit 601), then turning in a northerly direction, 603, 604, and 605. On the sixth living level, units 601 and 602 are three bedroom units, and units 603, 604, and 605 are two bedroom units

(E) ENCROACHMENTS - To the extent that any unit or common element now or hereafter encroaches on any other unit or common element, whether by reason of any deviation from the plats or plans in the construction, repair, restoration, renovation or replacement of any improvement, or by reason of the settling or shifting of any land or improvement, a valid easement for such encroachment shall exist.

#### ARTICLE FIVE

UNIT OWNERS - Each unit owner shall have the following undivided interests in the common elements of Buena Vista Condominium: Three bedroom units (101, 102, 201, 202, 301, 302, 401, 402, 501, 502, 601, and 602) six one hundred sixty seconds (6/162nds) each; two bedroom units (103, 104, 105, 203, 204, 205, 303, 304, 305, 403, 404, 405, 503, 504, 505, 603, 604, and 605) five one hundred sixty seconds (5/162nds) each. The project has no limited common

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elements as of the filing of this declaration.

#### ARTICLE SIX

VOTING RIGHTS - Each unit of Buena Vista Condominium shall be entitled to the following votes with respect to matters arising out of ownership of the common elements of Buena Vista Condominium: Three bedroom units (101, 102, 201, 202, 301, 302, 401, 402, 501, 502, 601, and 602) - six votes; Two bedroom units (103, 104, 105, 203, 204, 205, 303, 304, 305, 403, 404, 405, 503, 504, 505, 603, 604, and 605) - five votes. There shall therefore be a total of one hundred sixty two such votes, six for each of the three bedroom private individual units, and five for each of the two bedroom private individual units. Each unit owner, or group of owners of a unit, if more than one, shall advise the secretary of Buena Vista Condominium Owners' Association, Inc., of the name of the person entitled to exercise such votes and the secretary shall enter such name in a book kept for that purpose. Buena Vista Condominium Owners' Association, Inc., shall be entitled to rely on such advice, and shall recognize as entitled to so vote only those persons who have been designated as voters, notwithstanding that persons other than those so designated shall have various interests of ownership in the individual units from time to time. The majority of the owners of any private individual unit may redesignate, at any time, any person, whether or not an owner, as entitled to exercise the votes of that unit by so notifying the secretary of Buena Vista Condominium Owners' Association, Inc., in writing. The association shall recognize only the votes of the last person so designated by a majority of the owners of each unit.

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#### ARTICLE SEVEN

LIMITED COMMON ELEMENTS - As of the filing of this declaration, Buena Vista Condominium has no limited common elements as that term is defined by the Alabama Condominium Ownership Act. ("Limited Common Elements - A part or parts of the condominium property as set forth in the declaration in which more than one but not all unit owners have an undivided interest." Section 35-8-2(8) CODE OF ALABAMA 1975). This Article Seven of this declaration is hereby reserved for future use should limited common areas of Buena Vista Condominium be later defined by amendment to this declaration.

#### ARTICLE EIGHT

COMMON EXPENSE - Common expense shall be shared by the thirty private individual units, as follows: Three bedroom units - six one hundred sixty seconds (6/162nds), each; Two bedroom units - five one hundred sixty seconds (5/162nds), each. Assessments for common expenses shall be made by Buena Vista Condominium Owners' Association, Inc., in accordance with provisions therefor in the bylaws.

#### ARTICLE NINE

LIMITED COMMON EXPENSE - This Article Nine of this declaration is hereby reserved for use in assigning the proportion of limited common expense to individual units, should any limited common areas of Buena Vista Condominium be later defined by amendment to this declaration.

#### ARTICLE TEN

COMMON SURPLUS - Common surplus shall be shared by the thirty private individual units, as follows: Three bedroom units - six

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one hundred sixty seconds (6/162nds) each; two bedroom units - five one hundred sixty seconds (5/162nds) each. Distribution of common surplus shall be made by Buena Vista Condominium Owners' Association Inc., in accordance with provisions therefor in the bylaws.

#### ARTICLE ELEVEN

LIMITED COMMON SURPLUS - This Article Eleven of this declaration is hereby reserved for use in assigning the proportion of limited common surplus to be shared by each or any of the individual units, should any limited common areas of Buena Vista Condominium be defined by amendment to this declaration.

#### ARTICLE TWELVE

UNIT OWNERS' ASSOCIATION - The name of the association of the owners of units of Buena Vista Condominium shall be Buena Vista Condominium Owners' Association, Inc. Such association shall be responsible for the administration and management of Buena Vista Condominium in accordance with the provisions of the Alabama Condominium Ownership Act, this declaration, and the articles of incorporation and bylaws of Buena Vista Condominium Owners' Association, Inc. The association shall be incorporated. All unit owners will be members of the association, unless otherwise provided in this declaration by amendment. Buena Vista Condominium Owners' Association, Inc., acting through its officers or governing board, shall have the following powers:

1. The association may maintain, repair, replace, clean and sanitize the common elements (and limited common elements, if any).

2. The association may assess and collect funds and may pay for common expenses (and limited common expenses, if any) out of such

funds as are appropriate.

3. In addition to the enforcement of the covenants and restrictions concerning use, occupancy and transfer of units which are included in this declaration, the association may adopt, distribute, amend and enforce reasonable rules governing the administration and management of the condominium property and the use of the common elements (and limited common elements, if any).

4. The association shall maintain forms of insurance coverage which are for the benefit of the unit owners. The premiums for such insurance shall be assessed to the owners of the private individual units of Buena Vista Condominium on a pro rata basis and shall constitute a part of each unit owner's liability for common expense. The association shall advise each unit owner of the type and amount of insurance coverage maintained by the association. An insurance committee or trustee may be appointed by the association and charged with responsibility of the proceeds of any such insurance. No unit owner or other person or entity having an insurable risk in Buena Vista Condominium shall be precluded from obtaining additional insurance, individually, at his own expense and for his own exclusive benefit, against any risk, whether or not covered by insurance maintained by the association. Insurance maintained by the association shall include, but shall not be limited to, coverage of the entire condominium property against loss by fire, windstorm, rainstorm, flood and such other hazards as to which the association may desire insurance coverage and liability insurance against any risk, such as death, personal injury, or damage to property, faced by unit owners or by the association by virtue of their individual common

(or limited common, if any) ownership in or control over the condominium property, including but not limited to the acts and omissions of the association, its agents, servants and employees.

4. (a) In the event of loss or damage to all or any part of Buena Vista Condominium the association shall have the power to assess the unit owners, on a pro rata basis, in accordance with their respective shares of the common elements, for the amount by which the cost of repair of such loss or damage exceeds the amount of insurance proceeds paid or due to be paid as the result of such loss or damage. However, in the event of damage to fewer than all of the buildings, such assessments with respect to each damaged building shall be limited to the owners of the units in that building, and the owners of units in undamaged buildings shall not be assessed for damage to he damaged buildings.

4. (b) In the event of any damage to the condominium property, or any portion thereof, the association, and each of its officers and directors, shall hold the proceeds of insurance paid as the result of such loss, and all monies assessed and collected from the unit owners pursuant to the provisions of Paragraph 4 (a), above, in trust pending formal action by full meeting of the association unit owners, at which meeting there must be a quorum, and shall expend such monies in strict accordance with the wishes of a majority of the votes cast at such meeting. The trust hereby established shall be for the benefit of the unit owners and, in the case of mortgaged units, their respective mortgagees.

5. The association shall have access to each unit from time to time, upon reasonable notice and during reasonable business hours

as may be necessary (except that no notice or time limitations shall be required in the case of emergencies) for the maintenance, repair or replacement of any common elements (or limited common elements, if any) therein or accessible therefrom, or for making emergency repairs necessary to prevent damages to any other unit, units or common areas.

6. The association may purchase units in the condominium and otherwise acquire, hold, lease, mortgage and convey the same. It may also lease or license the use of common elements (and limited common elements, if any) in a manner not inconsistent with the rights of unit owners.

7. The association may acquire or enter into agreements whereby it acquires personal property, real property, leaseholds, memberships, units or other possessory or use interests in lands, facilities, services or utilities.

8. No unit shall be changed or altered except by amendment to this declaration. This provision shall not, however, be construed to prevent the repainting or nonstructural remodeling or refurbishing of units by their owners, at their expense.

9. The association shall arrange for and shall assess as common expenses (or as limited common expenses, if appropriate) garbage service, sewer service, water service, the lighting of common areas and grounds, maintenance and listing for taxation with respect to common areas, if required by law. All other utilities shall be the responsibility of the private individual owners.

10. The association may enter into agreements by which its powers and responsibilities or some of them may be exercised or performed by some other person or persons.

ARTICLE THIRTEEN  
COVENANTS AND RESTRICTIONS

1. OCCUPANCY - Each private individual unit shall be occupied only by a family, its servants and guests, as a residence and for no other purpose. No unit may be divided or subdivided into a smaller unit without first amending this declaration to allow therefor.

2. USE OF COMMON ELEMENTS - The common elements shall be used only for the purpose for which they are intended in the furnishing of access, services and facilities for the private individual units.

3. GENERAL USAGE - No use or practice shall be permitted on the condominium property which is a source of annoyance to condominium residents or which interferes with the peaceful possession and proper use of the property by all residents. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor shall any fire hazard be allowed to exist. No private individual unit owner shall permit any use of his unit or of the common elements which will disturb the other unit owners or increase the rate of insurance on the condominium property. No unlawful use may be made of the condominium property or any part thereof. All applicable laws, zoning ordinances and regulations respecting the condominium property shall be observed and obeyed by each private individual unit owner and those persons on the premises with his permission.

4. COMPLETION OF IMPROVEMENTS - Until such time as the Developer has completed and sold all of the private individual units, neither the private individual unit owners, nor Buena Vista Condominium Owners' Association, Inc., nor the use of the condominium

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property shall interfere with the completion of the planned improvements or the sale of units. The Developer may make such use of the unsold units and common areas as may facilitate such completion and sale.

5. NOTICE AND EFFECT OF ENCUMBRANCES - The owners of the private individual units shall notify the association of any and all liens upon their units and any and all suits which may affect title to their units. Such notice shall be given within five (5) days of the attachment of such lien or service of process in such suit. The granting of a mortgage on a unit by its owner(s) shall be construed as conferring upon the mortgagee a conditional proxy to cast the votes attributable to that unit at any regular or special meeting of the association. The condition of such proxy shall be notice by such mortgagee to the association, in writing, of its intent to exercise the conditional proxy rights granted to it, as mortgagee, by the terms of this subparagraph. In the absence of such written notice, the association shall be entitled to recognize the unit owner(s) of mortgaged units as fully entitled to cast the vote attributable to their unit. However, once such written notice is received by the association, the mortgagee's right to cast the votes attributable to that unit shall be recognized by the association until the mortgagee withdraws its intent to cast such votes, in writing, or until the mortgage is paid in full and satisfied of record, whichever first occurs.

5. (a) If a holder of a mortgage of record or other purchaser of a unit obtains title to such unit as a result of foreclosure of the mortgage, or as the result of execution and

delivery of a deed in lieu of foreclosure, such acquirer of title, his successors and assigns shall not be fully liable for the share of common expenses or other assessments by the association pertaining to such unit or chargeable to the former unit owner which became due prior to acquisition of title as a result of the foreclosure or deed in lieu of foreclosure. Such unpaid share of common expenses, limited common expenses or other assessments shall be deemed to be common expenses collectable from all of the remaining unit owners including such acquirer, his successors and assigns.

6. RULES AND REGULATIONS - Buena Vista Condominium Owners' Association, Inc., may make and amend, from time to time, reasonable regulations concerning the use of the condominium property in accordance with the provisions therefor in its articles of incorporation and bylaws. Copies of all such regulations and amendments shall be furnished by the association to all private individual unit owners and residents upon request.

7. LIABILITY OF OWNERS - Owners of private individual units of Buena Vista Condominium shall be liable for the expense of any maintenance, repair or replacement of private or common elements rendered necessary by their acts, negligent, careless or otherwise, or those of anyone on the premises with their express or implied consent, but only to the extent that such expense is not met by the proceeds of insurance carried by the association. Such liability shall include any increase in insurance rates occasioned by such acts or by an owner's use, misuse, occupancy or abandonment of his unit or its appurtenances.

8. ENFORCEMENT - In any proceeding to enforce any alleged



liability of a unit owner arising under this or any other section of this declaration, the bylaws or the articles of incorporation of Buena Vista Condominium Owners' Association, Inc., the prevailing party shall recover the costs of the proceeding, including a reasonable attorney's fee to be assessed by the court.

9. NONENFORCEMENT - The failure of the association or any unit owner to enforce any provision, covenant or restriction of this declaration, the articles of incorporation or the bylaws of Buena Vista Condominium Owners' Association, Inc., or the Alabama Condominium Ownership Act, or rule or regulation adopted pursuant thereto shall not constitute a waiver of the right thereafter to do so at any time.

#### ARTICLE FOURTEEN

BLANKET MORTGAGES - The entire property of Buena Vista Condominium, or some or all of the units included therein, may be subjected to a single or blanket mortgage constituting a first lien thereon created by recordable instrument executed by all of the owners of the property or units covered thereby. Any unit included under the lien of such mortgage may be sold or otherwise conveyed or transferred subject thereto. Any such mortgage shall provide a method whereby any unit owner may obtain a release of his unit from the lien of such mortgage and a satisfaction and discharge in recordable form upon payment to the holder of the mortgage a sum equal to the reasonable proportionate share attributable to his unit of the then outstanding balance of unpaid principal and accrued interest, and any other charges then due and unpaid. The proportionate share of the mortgage required to be paid for release shall be determined by provisions pertaining thereto stated in the mortgage or, if the mortgage contains

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no such provisions, then according to the proportionate share of the common elements of Buena Vista Condominium attributable to such unit or units.

#### ARTICLE FIFTEEN

RIGHTS OF SECURITY HOLDERS - In recognition of the fact that units of Buena Vista Condominium, will be mortgaged from time to time, and that such mortgages may at times be variously insured or guaranteed by others, Buena Vista Condominium Owners' Association, Inc., will recognize such interests in at least the following ways (all holders of first mortgages on units within the condominium, and all insurers and guarantors thereof, are sometimes collectively referred to in this declaration and in the other condominium documents as "security holders" or as the "holders of security interests"):

A - NOTICES TO SECURITY HOLDERS - Upon written request to Buena Vista Condominium Owners' Association, Inc., by any holder of any security interest in any unit of Buena Vista Condominium, identifying the name and address of such security holder, the condominium unit number and the name of the owner or owners of such unit, the Association shall timely notify such security holder of the following matters for so long as the security interest exists:

1. Any condemnation loss or casualty loss which affects a material portion of the project or any condominium unit on which there is a first mortgage in which such security holder is in any way interested.

2. Any delinquency in the payment of assessments or charges owed by the owner of any condominium unit subject to such security holders' security interest which remains uncured for a period of sixty

days.

3. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

4. Any proposed action which would require the consent of a specified percentage of the holders of security interests in units within the condominium as specified herein.

B - PROCEDURES UPON TOTAL OR PARTIAL CONDEMNATION, DESTRUCTION, OR TERMINATION - Buena Vista Condominium Owners' Association, Inc., shall represent the unit owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the common areas, or part thereof. By joining in this amendment, or by accepting unit deeds subsequent to this amendment, the unit owners appoint Buena Vista Condominium Owners' Association, Inc., as their attorney in fact for such purposes. The said Owners' Association may appoint a trustee, or an insurance committee as such trustee, to carry out the above functions. Any award, settlement or distribution in respect of total or partial condemnation, destruction or termination shall be payable to or handled by Buena Vista Condominium Owners' Association, Inc., or its trustee, for the use and benefit of the unit owners and their respective mortgagees as their respective interests may appear, on a reasonable and equitable basis, in accordance with each unit's respective interest in the common elements as set forth in the original declaration.

C - VOTING RIGHTS OF SECURITY HOLDERS UPON PARTIAL DESTRUCTION OR PARTIAL CONDEMNATION - In addition to the notices specified above, security holders shall also be afforded the following

voting rights, upon the happening of the events specified:

1. Any restoration of Buena Vista Condominium, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the declaration and the original plans and specifications, unless other action is approved by the security holders holding mortgages on unit estates having at least fifty one percent of the votes attributable to units in which there are outstanding security interests.

2. Any election to terminate the legal status of the project after substantial destruction or a substantial taking in condemnation of the project property be approved by the security holders holding mortgages on unit estates having at least fifty one percent of the votes attributable to units in which there are outstanding security interests.

3. In the event of the partial destruction or partial condemnation of Buena Vista Condominium, no reallocation of interests in the common areas of Buena Vista Condominium shall be effected without the prior approval of the security holders holding mortgages on all remaining unit estates, whether existing in whole or in part, having at least fifty one percent of the votes attributable to such remaining units in which there are outstanding security interests.

D. RIGHTS OF SECURITY HOLDERS REGARDING CERTAIN AMENDMENTS - The following provisions do not apply to amendments to the condominium documents or termination of Buena Vista Condominium as the result of destruction, damage or condemnation, or to any reallocation of the common elements pursuant to any plan of expansion or phased development contained in the original condominium constituent

documents; HOWEVER, with respect to amendments not falling under such categories, the following shall apply:

1. The consent of the owners of unit estates to which at least sixty seven percent of the votes in Buena Vista Condominium Owners' Association, Inc., are allocated and the approval of security holders holding mortgages on unit estates having at least sixty seven percent of the votes attributable to units in which there are outstanding security interests shall be required to terminate the status of Buena Vista Condominium as a condominium.

2. The consent of the owners of unit estates to which at least sixty seven percent of the votes in Buena Vista Condominium Owners' Association, Inc., are allocated and the approval of security holders holding mortgages on unit estates having at least fifty one percent of the votes attributable to units in which there are outstanding security interests shall be required to add or amend any material provisions of the condominium documents of Buena Vista Condominium which establish, provide for govern or regulate any of the following:

- a. Voting;
- b. Assessments, assessment liens or the subordination of such liens;
- c. Reserves for maintenance, repair and replacement of the common areas (or units, if applicable.);
- d. Insurance or fidelity bonds;
- e. Rights to use of the common areas;
- f. Responsibility for maintenance and repair of the several portions of Buena Vista Condominium;

g. Expansion or contraction of Buena Vista Condominium, or the addition, annexation or withdrawal of property to or from Buena Vista Condominium;

h. Boundaries of any unit;

i. The interests in the general or limited common areas (if there are any common areas);

j. Convertibility of units into common areas or of common areas into units;

k. Leasing of unit estates;

l. Imposition of any right of first refusal or similar restriction on the right of a unit estate owner to sell, transfer or otherwise convey his or her unit estate.;

m. Any provisions which are for the express benefit of mortgage holders, the holders of security interests as defined in this amendment, or the insurers or guarantors of first mortgages on unit estates.

E. INSURANCE AND FIDELITY BONDS - Buena Vista Condominium Owners' Association, Inc., shall maintain in effect casualty and liability insurance and fidelity bond coverage as specified in Federal National Mortgage Association (FNMA) Conventional Home Mortgage Selling Contract Supplement (hereinafter the FNMA Supplement) 803.07P.

F. AVAILABILITY OF DOCUMENTS - Buena Vista Condominium Owners' Association, Inc., shall make available to all unit owners and holders of security interests in units of Buena Vista Condominium current copies of the Declaration of Condominium, the By Laws and the Articles of Incorporation of Buena Vista Condominium Owners' Association, Inc., other rules concerning the project and all other

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books, records and financial statements of the said Owners' Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

G. RESTRICTION ON CONTRACTS - Neither Buena Vista Condominium, nor its Owners' Association, shall enter into any contract which is not terminable by the Association for any cause, or without cause, at any time, except that this restriction shall not apply to contracts for essential utilities such as water, sewer or electrical service.

H. ASSESSMENTS FOR COMMON EXPENSES - Assessments for the common expenses of Buena Vista Condominium, including special assessments, shall be due and collectable on a monthly basis, shall first be due in respect of each unit in the first month after the unit is transferred to its first owner, and shall be enforceable by Buena Vista Owners' Association, Inc., in the mode and manner provided by Section 35-8-17 CODE OF ALABAMA 1975, which provides for the establishment and enforcement of liens in favor of the Association.

I. COMMON EXPENSE RESERVES - Buena Vista Condominium Owners' Association, Inc., shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the common areas. (Buena Vista Condominium has no limited common areas.) The fund shall be maintained out of regular assessments for common expenses.

J. WORKING CAPITAL FUND - Buena Vista Condominium Owners' Association, Inc., shall establish a working capital fund equal to at least three months estimated common expense for each unit. Each

unit's share of the working capital fund must be collected and transferred to the Owners' Association at the time the unit is first purchased, and must be maintained in a segregated account for the use and benefit of the Association. Amounts paid into the fund as initial working capital shall be non refundable and shall not be applied toward the regular monthly maintenance fee assessments.

K. NO RIGHT OF FIRST REFUSAL - There shall be no so called "right of first refusal" created with respect to Buena Vista Condominium.

L. RIGHTS OF ACTION - Buena Vista Condominium Owners' Association, Inc., shall have a right of action, in any court of competent jurisdiction, against any unit owner as a means of enforcing any of the rights and obligations established by the condominium documents of Buena Vista Condominium or by the laws of the State of Alabama regarding condominiums. Similarly, the owners of units of Buena Vista Condominium shall have joint, separate and several rights of action against Buena Vista Condominium Owners' Association, Inc., in courts of competent jurisdiction, in respect of matters with respect to which they may at any time be aggrieved.

M. RESOLUTION OF CONFLICTS - In the event of conflict between the provisions of this Article and any other part of this declaration or the other condominium constituent documents, the provisions of this Article shall be controlling.

#### ARTICLE SIXTEEN

AMENDMENTS - This declaration may be amended by the votes representing three-fourths (3/4ths) of the private individual units of Buena Vista Condominium, cast in person or by proxy at a meeting duly



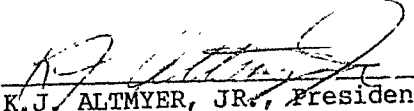
held in accordance with the provisions of the bylaws. The notice of any meeting at which an amendment to this declaration is proposed shall be in writing and shall include specific notice of the nature and terms of the proposed amendment. No amendment may change, alter or eliminate any private individual unit or effect any change in the percentage or fraction of the ownership of the common elements attributable to that unit, unless and until all of the owners and record mortgage holders of such unit shall have agreed to such amendment, in writing. All amendments shall become effective only upon being placed of record in the Office of the Judge of Probate, Baldwin County, Alabama.

IN WITNESS WHEREOF, ALTMYER DEVELOPMENT, INC., an Alabama corporation, has caused this declaration to be executed by K.J. ALTMYER, JR., its president, this the 9<sup>th</sup> day of December, 1983.

ATTEST:

ALTMYER DEVELOPMENT, INC.  
an Alabama corporation

  
KENNETH J. ALTMYER, SR., Secretary

  
K.J. ALTMYER, JR., President

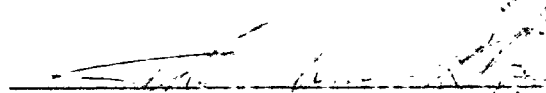
STATE OF Alabama  
Baldwin COUNTY

CORPORATE ACKNOWLEDGEMENT

I, the undersigned authority, in and for said county, in said State, hereby certify that K. J. ALTMYER, JR., and KENNETH J. ALTMYER, SR., whose names as president and secretary, respectively, of ALTMYER DEVELOPMENT, Inc., are signed to the above and foregoing Declaration of Condominium, and who are known to me, acknowledged before me on this day that, being informed of the contents of the

Declaration they executed the same voluntarily on the day the same bears date, for and as the act of the said corporation.

Given under my hand and official seal this the 5 day of September, 1983.

  
\_\_\_\_\_  
Notary Public

This instrument was prepared by:

Samuel G. McKerral  
Attorney At Law  
P. O. Box 818  
Gulf Shores, Alabama 36542

MSC047-0742