

No. 17

DATED February 15

, 1995

WINNIPEG CONDOMINIUM CORPORATION NO. 344

PLAN NO. 32200

No. 1900381

I CERTIFY THAT THIS INSTRUMENT IS DULY ENTERED AND REGISTERED IN THE LAND TITLES OFFICE, FOR THE DISTRICT OF WINNIPEG, ON THE DAY OF February 13/95 A.D. 1995

[Signature]

FOR DISTRICT OF WINNIPEG

[Handwritten initials]

N.B. Charge

* Extra Fee 1280.00
as per ORIGINAL AMT on RDA OM.

CONDOMINIUM DECLARATION

Parcel A Units 32199

CODEC

[Handwritten initials]

1900381

CORPORATION No. 344
CONDO PLAN 32200.

LAND TITLES OFFICE
WINNIPEG

APR 22 1995

ALL FEES PAID

I hereby certify that the [unclear]
[unclear] [unclear] [unclear]
[unclear] [unclear] [unclear]

Jeanne Stephenson
for

See 124/9A

CONDOMINIUM DECLARATION

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DECLARATION

This Declaration of covenants, conditions and restrictions (hereinafter called "the Declaration") is made and executed pursuant to The Condominium Act R.S.M. 1987, Chapter C170, and amendments thereto (hereinafter referred to as "the Act") in the City of Winnipeg in the Province of Manitoba the 15th day of February, A.D. 1995, by Pelican Harbour Resorts Ltd., a Corporation having its head office in the City of Winnipeg., in the Province of Manitoba, hereinafter called "the Declarant"

WHEREAS -

1. The Declarant is entitled, under the Real Property Act, R.S.M. 1970, Chapter 30, to be the registered owner of certain Real Property legally described as follows:

Please see attached Schedule "A"

2. There are no buildings on the land, and there are no leases of any kind with respect to the land or any part of it.
3. The Declarant intends that the said Property shall be governed by the Act;
4. The Declarant is desirous of establishing for its own benefit and for the mutual benefit of all future owners or occupants of the Property or any part thereof certain easements and rights in, over and upon the Property, and certain mutually beneficial restrictions and obligations with respect to the Property and the use, conduct and maintenance thereof;
5. The Declarant desires and intends that the several owners, mortgagees, occupants and other persons hereafter acquiring any interest in the Property shall at all times enjoy the benefits of and shall hold their interest together with and subject to the rights, easements, privileges and restrictions hereinafter set forth, and as proven by the Act, By-laws, Common Element Rules and Architectural Committee Rules hereinafter referred to, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspect of the Property and are established for the purpose of enhancing and protecting the value, desirability and attractiveness thereof;
6. The consents of all persons having registered encumbrances against the land or interests appurtenant to the land described in the plan or interests or estates in the land in respect of which caveats have been filed are hereby annexed as Schedule "A".
7. The Property does not contain rented residential premises that are occupied by tenants on the date the Declaration is submitted for registration.

ARTICLE I - INTRODUCTORY

1.01 DEFINITIONS

- (a) All definitions contained in the Act shall apply to this Declaration, except where such definitions are here modified;
- (b) "Architectural Committee" shall mean a Committee created pursuant to Article 2.03 hereof;
- (c) "Architectural Committee Rules" shall mean the rules adopted by the Architectural Committee;
- (d) "Bare land Unit" means a Unit defined by delineation of its horizontal boundaries without reference to any buildings and as set out in the Plan;
- (e) "Common Element Rules" means rules and regulations with respect to the use of the Common Elements as are enacted by the Corporation from time to time;
- (f) "Corporation" means the Corporation created under the Act by the registration of this Declaration and the Plan;
- (g) "Owner" means the registered owner of a Unit, or in the case of co-owners who desire to vote, the proxy appointed jointly by such co-owners;
- (h) "Plan" means the Plan which has been prepared in accordance with the Act, and is to be registered with this Declaration by the Declarants in the Winnipeg Land Titles Office, and any amendments thereto;
- (i) "Property" means the land described in the Plan and more particularly described as all the Units, Numbers one (1) to one hundred twenty-eight (128), both inclusive and the Common Elements according to the Plan;
- (j) "Termination" shall mean withdrawal of the Property from the Act;
- (k) "Unit" in this Declaration means a Bare Land Unit, plus any improvements thereto.

1.02 - SUBMISSION OF PROPERTY TO THE ACT

The recitals herein are true and the Property, together with the buildings constructed thereon and all interests appurtenant thereto, are hereby submitted to the provisions of the Act. By virtue of the Act, the terms of this Declaration, the Plan, the By-laws, the Common Element Rules, and the Architectural Committee Rules are imposed upon the Property for the benefit of all the Units and all persons interested therein from time to time.

1.03 - PARTICULARS OF UNITS

The Units shall be shown in the Plan which has been prepared in accordance with the provisions of the Act and is submitted for registration contemporaneously herewith, and the proportions expressed in percentages allocated to each Unit in which the owners are to have voting rights in the Corporation, to share in the Common Interest, and to contribute to the Common Expenses, shall be as follows:

- (a) The percentage allocated to Units 1 to 128 for voting rights in the Corporation is .78125.
- (b) The percentage allocated to Units 1 to 128 for the contribution to Common Expenses and for the proportion of Common Interest is .78125.

1.04 - NAME OF COMPLEX

The name of the said complex is PELICAN HARBOUR RESORTS.

1.05 - INTENTION

All of the Property shall be held, conveyed, mortgaged, encumbered, leased, occupied and improved subject to and together with the following covenants, conditions, restrictive uses,

limitations and obligations as provided by the Act, the By-laws, the Common Element Rules, and the Architectural Committee Rules all of which are declared to be in furtherance of a plan for the improvement of the Property, and all parts thereof, and the promotion and protection of the cooperative aspects of the Property, and for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. The said covenants, conditions, restrictive uses, limitations and obligations shall enure to the benefit of and be binding upon the Declarant, its successors and assigns, and any persons acquiring or owning an interest in the Property, their grantees, successors, heirs, executors, administrators and assigns.

1.06 - FIRST MEETING

As soon as practicable after the registration of this Declaration, the Unit owners may, on three (3) days' notice, or in the event that all owners can be present, then without notice, hold their first meeting for the purposes of electing the Board of Directors. The Board of Directors so elected may, without notice, hold its first meeting providing a quorum of Directors is present.

ARTICLE II - UNITS

2.01 - MEANING OF "UNIT"

Wherever in any agreement respecting a Unit, or in this Declaration, the By-laws, the Common Element Rules, or any mortgage or conveyance of a Unit, the term "Unit" is used, it shall include, for all purposes, the interest in the Common Elements appurtenant to such Unit unless a contrary intention is specifically stated.

2.02 - BOUNDARIES OF UNITS

The boundaries of the Units are shown on the Plan.

2.03 - ARCHITECTURAL CONTROL

(a) (i) Committee Composition. The Architectural Committee shall consist of three (3) persons, none of whom shall be required to be an architect, or a member, officer or Director of the Corporation or to meet any other particular qualifications. From and after such time as the Board of Directors acquires the right to appoint, remove and replace members of the Architectural Committee, the Board of Directors may, at its discretion, and from time to time, increase or decrease the size of the Architectural Committee, provided, however, that in no event shall the size of the Architectural Committee be less than three (3).

(ii) Appointment, Removal, Etc. Members of the Architectural Committee shall be appointed by and serve at the pleasure of the Board of Directors, provided, however, that so long as Declarant owns at least one (1) Unit, Declarant shall have the sole and exclusive right to appoint, replace and remove members of the Architectural Committee, provided, further, however, that from and after the sale of ten (10) Units, at least one (1) member of the Architectural Committee appointed by Declarant must be an owner other than the Declarant. Declarant may at any time surrender its exclusive right to appoint, replace and remove members of the Architectural Committee.

(b) Duties. It shall be the duty of the Architectural Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms hereof, to ensure that any improvements constructed on Property by anyone other than Declarant, conform to plans approved by the Architectural Committee, to adopt Architectural Committee Rules, and to carry out all other duties imposed upon it by the Declaration. The Board of Directors, from and after such time as the appointment, removal and replacement of members of the Architectural Committee is no longer within the sole and exclusive jurisdiction of the Declarant, may from time to time, prescribe additional duties not inconsistent with this Declaration to be delegated to the Architectural Committee. Any plans submitted to the Architectural Committee which are not disapproved in writing within sixty (60) days after submission thereof to the Architectural Committee shall be deemed approved. The Architectural Committee, in its own name or on behalf of the Corporation,

may exercise all available legal and equitable remedies to prevent or remove any unauthorized or unapproved construction or improvements on the Property or any portion thereof. It shall be conclusively presumed that any action subject to approval of the Architectural Committee was so approved if the Architectural Committee or the Board of Directors fails to commence an action in law or in equity in respect to such action within one (1) year of the same having taken place.

(c) Meeting and Compensation. The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of a majority of the members of the Architectural Committee, at a meeting or otherwise, shall constitute the act of the Committee. The Committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise. Members of the Architectural Committee shall not receive any compensation for services rendered.

(d) Architectural Committee Rules. The Architectural Committee may, from time to time, and in its sole and absolute discretion, adopt, amend and repeal, by majority vote or written consent of its members, rules and regulations, to be known as "Architectural Committee Rules". Said Rules shall interpret and implement the Declaration by setting forth the standards and procedures for Architectural Committee review and the guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use within the Property.

(e) Waiver. The approval by the Architectural Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Architectural Committee under this Declaration shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

(f) Liability. Neither the Architectural Committee nor any member thereof shall be liable to the Corporation, any owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of (i) the approval or disapproval of any plans, drawings, or specifications, whether or not defective, (ii) the construction or performance of any work upon the Property, or (iii) any other act, action or conduct of the Architectural Committee or any of the members thereof, so long as that with respect to the liability of a member of the Architectural Committee, such member has acted in good faith on the basis of such information as may be possessed by him.

(g) Appeal to Arbitration. Should any owner feel aggrieved by a decision of the Architectural Control Committee, such owner may elect to have the issue decided by arbitration. The arbitration shall be a submission to two arbitrators and the Arbitration Act of Manitoba shall apply.

2.04 - USE RESTRICTIONS APPLICABLE TO UNITS

In addition to all other covenants contained herein, the use of each and every Unit is subject to the following:

(a) Use as a Single Family Dwelling.

(i) Except as otherwise provided in the Declaration, each Unit shall be used as a residence for a Single Family and for no other purposes, and there shall not be constructed or maintained upon any Unit more than one Single Family residence and such other structures as are reasonably incidental to the use of the Unit as a single family residence. Such use as a single family residence shall be deemed to include accessory use as a professional office to the extent customarily incidental to primary use as a residence.

(ii) The owner of the individual dwelling located on the Unit shall be responsible for the maintenance of and shall maintain the interior and exterior of such dwelling in a clean, sanitary and attractive condition.

(iii) The owner of each Unit shall keep such Unit free from rubbish, litter and noxious weeds.

(b) **Temporary Structure.** No structure of a temporary character, trailer, tent, shack, garage, barn, or other out-building shall be used on any Unit at any time as a residence, either temporarily or permanently unless such use is authorized by the Board of Directors. Notwithstanding the provisions of this section 2.04(c), Declarant may construct and maintain on any Unit and upon the Common Elements temporary buildings, structures and vehicles used for construction and administration purposes for use in connection with the initial construction of improvements on any portion of the Property. All such buildings, vehicles and structures constructed or placed upon a Unit or the Common Elements shall be removed no later than the completion of the construction for which such buildings, vehicles or structures were constructed or placed.

(c) **Limitations on Application of Restrictions.** The restrictions set forth in this Article II shall not apply to the Declarant, its agents or employees, during the course of construction of improvements on the Property or any portion thereof to the extent that they would interfere with such construction.

(d) **Laws and Ordinances.** Each owner shall promptly comply will all laws, statutes, ordinances, rules and registrations of Federal, Provincial or Municipal governments or authorities applicable to the use, occupancy, construction and maintenance of any Improvements upon any Unit.

(e) Each owner shall comply and shall require all residents and visitors to his Unit to comply with the Act, this Declaration, and the By-laws and the rules and regulations passed pursuant thereto.

(f) **Drainage.** Each owner hereby covenants and agrees for himself, his heirs, assigns, vendees and successors in interest that he will refrain from interference with the established drainage pattern over his Unit from adjoining or other Units, and make adequate provision for proper drainage from any other such Unit in the event the established drainage over his Unit is changed or altered.

2.05 - LEASING

The requirements for an owner of a Unit to lease his Unit are as follows:

(a) No owner shall lease his Unit unless he causes the Tenant thereof to execute under seal and deliver to the Corporation a separate Agreement between the Corporation, the Landlord and the Tenant to the following effect -

"Between

("the Tenant")

- and -

("the Landlord")

- and -

Pelican Harbour Resorts
("the Corporation")

I, _____ covenant and agree with the Landlord and the Corporation that I, members of my household and my guests from time to time, will, in using the Unit rented by me and the Common Elements, comply with the Act, the Declaration, the By-laws and all rules and regulations of the Corporation during the term of my tenancy."

(b) No tenant shall be liable for the payment of Common Expenses unless notified by the Corporation that the owner is in default of payment of Common Expenses, in which case the tenant shall deduct from the rent payable to the owner, the owner's share of the Common Expenses, and shall pay the same to the Corporation,

(c) Any owner leasing his Unit shall not be relieved hereby from any of his obligations with respect to the Unit, which shall be joint and several with his Tenant.

ARTICLE III COMMON ELEMENTS

3.01 - USE OF COMMON ELEMENTS

Subject to the provisions of the Act, this Declaration and the By-laws, and any rules and regulations passed pursuant thereto, each owner shall have the right to the use and enjoyment of the Common Elements in common with all other owners except as hereinafter stated, and such rights shall extend to the owner and to the members of the immediate family and guests and other authorized occupants and visitors of the owner.

3.02 - RESTRICTIVE ACCESS

Without the consent in writing of the Board of Directors, no owner shall have the right of access to those parts of the Common Elements used from time to time as a dwelling for any Building Superintendent, Manager's Office, or for any utility areas, storage areas, building maintenance areas, operating machinery, or parts of the Common Elements for the care, maintenance, or operation of the Property, provided, however, that this paragraph shall not apply to any First Mortgagee holding a mortgage on a Unit who shall have a right of access for inspection upon forty-eight (48) hours notice to the Property Manager, or the Corporation.

3.03 - MAINTENANCE OF THE COMMON ELEMENTS

The Corporation shall maintain the Common Elements notwithstanding that such maintenance may be required as a result of reasonable wear and tear.

3.04 - SUBSTANTIAL CHANGES OR ADDITIONS

(a) The Corporation may, by a vote of the owners who own at least sixty-seven (67%) percent of the Common Elements, at a meeting of owners called for that purpose, make any substantial addition, alteration or improvement to or renovation of the Common Elements, or make any substantial change in the assets of the Corporation. At any meeting called pursuant to this Article, votes against the proposed expenditure shall be called for, counted and recorded before calling for votes in favour of the expenditure,

(b) The Corporation may, by a vote of the majority of the members, make any other addition, alteration or improvement to, or renovation of the Common Elements, or make any other change in the assets of the Corporation,

(c) For the purposes of this Clause 3.04 the Board of Directors shall decide whether any addition, alteration, or improvement of, the Common Elements, or any change in the assets of the Corporation, is substantial.

(d) The Declarant, as developer, shall be entitled to make changes or additions to the Property at any time, without obtaining the approval of either the Corporation or the owners, provided same comply with the Development Agreement to which the Property is subject, and provided such changes or additions are undertaken at the sole expense of the Declarant.

3.05 - CHANGES REQUIRED BY CITY OR GOVERNMENT

Where a substantial change in the Common Elements or a substantial addition to the assets of the Corporation is required by Province of Manitoba to be done within fifteen (15) days or less, the Corporation shall comply without a meeting or a vote. When Province of Manitoba requires a substantial change in the Common Elements or a substantial addition to the assets of the Corporation within any other greater period of time, the Corporation may make such changes in the Corporation's procedure as may be reasonably necessary to comply with the specified time allowed, and the proceedings shall in all respects be as binding as if all necessary formalities had been complied with.

**ARTICLE IV
COMMON EXPENSES**

4.01 - SPECIFICATION OF COMMON EXPENSES

Common Expenses shall be as defined in the Act, and shall include -

- (a) All sums of money levied against or charged to the Corporation on account of any and all utilities and services including, without limiting the generality of the foregoing, levies or charges for -
- | | |
|---|--|
| (i) Insurance premiums; | (x) Maintenance to sewage plant, if any; |
| (ii) Refuse disposal; | (xi) Maintenance of Historic sites; |
| (iii) Maintenance materials, tools and supplies; | (xii) Maintenance of Community Wells. |
| (iv) Snow removal and landscaping; | |
| (v) Road maintenance; rights-of-way; | |
| (vi) Water supply to the Common Elements; | |
| (vii) Hydro supply to Common Elements; | |
| (viii) Telephone service to the Manager's Office; | |
| (ix) Security Services | |
- (b) The payment of realty taxes (including local improvement charges) levied against the entire Property, until such time as taxes are levied against each Unit;
- (c) Remuneration payable by the Corporation to any employees deemed necessary by the Board of Directors for the proper operation and maintenance of the Property;
- (d) Payment of any remuneration payable pursuant to any management contract which may be entered into between the Corporation and a Manager;
- (e) The cost of furnishings and equipment for use in and about the Common Elements including the repair, maintenance or replacement thereof;
- (f) The cost of appraisals pursuant to this Declaration;
- (g) The cost of maintaining Fidelity Bonds as provided in the By-laws, and the fees and disbursements of the solicitor, accountant and auditor of the Corporation;
- (h) The cost of borrowing money for the purpose of carrying out the object and duties of the Corporation provided that each borrowing must be approved by the Unit owners at meetings duly called for the purpose of obtaining such approval;
- (i) All further items of expense which may from time to time be determined by the Directors of the Corporation to form a part of the Common Expenses, such determination of the Directors to be final and binding upon the owners.

4.02 - UNIT TAXES NOT INCLUDED IN COMMON EXPENSES

Subject to the provisions of Article 4.01(b) hereof, taxes on each Unit and Common Interest appurtenant thereto which constitute a parcel pursuant to Section 8 (11) of the Act, do not form part of the Common Expenses and are the responsibility of the individual Unit owner.

4.03 - PAYMENT OF COMMON EXPENSES

Each owner shall contribute to the Common Expenses in the percentage set forth in Clause 1.03(b) hereof. Each owner's share of Common Expenses shall be paid to the Corporation or as the Corporation may otherwise direct, in such manner and at such times as shall be specified in the By-laws of the Corporation.

4.04 - PRIORITY

Notwithstanding Section 14 of the Act, the holder of any First Mortgage registered against each Unit shall have priority over all liens subsequently registered under the provisions of the said Section.

ARTICLE V - INSURANCE

5.01 - INSURANCE BY THE CORPORATION

The Corporation shall be required to obtain and maintain, to the extent obtainable from the insurance industry, the following insurance, in one or more policies -

(a) Insurance against damage by fire with extended coverage and such other perils as the Board of Directors may from time to time deem advisable, and obtainable at reasonable cost insuring:

(i) The Common Elements, and

(ii) Personal property owned by the Corporation, in an amount equal to the full replacement cost of such real and personal property, without deduction for depreciation, which policy may be subject to a loss deductible clause,

(b) Public liability and property damage insurance insuring the liability of the Corporation and the owners from time to time, with limits to be determined by the Board of Directors, and without right of subrogation as against the Corporation, its Manager, agents, servants and employees, and as against the owner, and any member of the household or guests of any owner or occupant of a Unit,

(c) Machinery insurance to the extent required as the Board of Directors may from time to time deem advisable.

5.02 - GENERAL PROVISIONS

(a) The Corporation, its Board of Directors, and its Officers, shall have the exclusive right, on behalf of itself, its agents, and for the owners, to adjust any loss and settle any claims with respect to all insurance placed by the Corporation, and to give such releases that are required, and any claimant shall be bound by such adjustment.

(b) A certificate or memorandum of all insurance policies and endorsements thereto shall be issued as soon as possible to each owner. The master policy for any insurance coverage shall be kept by the Corporation in its offices, available for inspection by an owner or mortgagee on reasonable notice to the Corporation,

(c) No insured, other than the Corporation, shall be entitled to amend any Policy or Policies of Insurance obtained and maintained by the Corporation, or to direct that loss shall be payable in any manner other than is provided in this Declaration.

(d) The proceeds of insurance carried by the Corporation shall be payable to the Corporation and held by the Corporation for the purposes specified in this Act and this Declaration.

5.03 - INSURANCE BY THE OWNER

It is acknowledged that the foregoing insurance is the only insurance required to be obtained and maintained by the Corporation and that the following insurance, or any other insurance deemed necessary or desirable by any owner, may be obtained and maintained by such owner -

(a) Insurance with respect of loss or damage to his Unit and his interest in the Common Elements against fire and other perils to the extent that it is not so insured by the Corporation or to the extent that the insurance placed by the Corporation is not effective or is inadequate;

(b) Insurance on any additions or improvements made by the owner to his Unit and for furnishings, fixtures, equipment, decorating and personal property and chattels of the owner contained within his Unit, and his personal property, including his automobile or automobiles and for loss of use and occupancy of his Unit in the event of damage, which Policy or Policies of Insurance shall contain waiver of subrogation against the Corporation, its Manager, agents, employees and servants, and against the other owners and any members of their household, except for vehicle impact, arson and fraud;

(c) Public liability insurance covering liability of any owner to the extent not covered by any public liability and property damage insurance obtained and maintained by the Corporation;

(d) Insurance to cover the rental value of his Unit to the extent it is not so insured by the Corporation. Notwithstanding the Insurance Act or the provisions of the foregoing policy, the policy of insurance issued to a Unit owner hereunder is not liable to be brought into contribution with any other policy of insurance except another policy issued on the same property to the Unit owner.

**ARTICLE VI
INDEMNIFICATION**

6.01 - GENERAL

Each owner shall indemnify and save harmless the Corporation from and against any loss, costs, damage, injury or liability whatsoever which the Corporation may suffer or incur resulting from or caused by an act of omission of such owner, his family or any member thereof, any other resident of his Unit or any guests, invitees or licensees of such owner or resident to or with respect to the Common Elements and/or all other Units, except for any loss, costs, damages, injury or liability caused by an insured (as defined in any Policy or Policies of insurance) and insured against by the Corporation.

All payments pursuant to this Clause 6.01 are deemed to be additional contributions towards the Common Expenses and recoverable as such.

**ARTICLE VII
SALE**

7.01 - VOTE REQUIRED

The complete Property or any part of the Common Elements may be sold if authorized by one hundred (100%) percent of the owners and by the consent of the persons having registered claims against the Property or the parts of the Common Elements, as the case may be, created after the registration of this Declaration and the Plan. In voting on a proposed sale, the owners voting against the sale shall vote first and be recorded.

7.02 - PROCEEDS OF SALE

In the event of sale of the complete Property or any part of the Common Elements, the proceeds shall be shared by the owners in the same proportion as their Common Interest.

**ARTICLE VIII
EXPROPRIATION OF PART OF COMMON ELEMENTS**

8.01 - If no Units are affected by the expropriation and the expropriation includes part of the Common Elements, the compensation shall be negotiated and finalized by the Corporation, whether or not proceedings are necessary, and the compensation less such amount as may be required to reconstruct or repair, shall be distributed among the owners and mortgagees in proportion to their interest in the Common Elements.

**ARTICLE IX
TERMINATION**

9.01 - VOTE REQUIRED

Termination of the government of the Property by the Act may be authorized by a vote not less than one hundred (100%) percent of the Unit owners and by the consent of the persons having registered claims against the Property created after the registration of this Declaration and the Plan.

9.02 - OWNERSHIP OF PROPERTY

Where termination of the government of the Property under the Act is authorized, the owners shall become tenants in common, or lessees as the case may be, of the Property. Each owner shall have a claim against the Corporation subject to the rights of any mortgagee, equal to the value of the improvements that have been made to his Bare Land Unit.

9.03 - VALUATION OF IMPROVEMENTS

The fair market value of the improvements to each Bare Land Unit shall be determined by an independent qualified appraiser appointed by the Board of Directors. Any owner dissatisfied with such appraisal may elect, within thirty (30) days from receipt of results of appraisal, to have the fair market value of the Property at the time of the sale determined by arbitration. The arbitration shall be a submission to two arbitrators and the Arbitration Act shall apply.

9.04 - MANAGEMENT AND TERMINATION

If the government of the Property by the Act is terminated the following rules shall apply -

- (a) Board of Directors to continue - The Board of Directors and the Officers thereof shall continue to have all powers, duties and obligations in connection with the Property that they had prior to termination;
- (b) Sale to be made - The Board of Directors and the Officers thereof shall endeavor to sell the Property at the earliest possible time for the best possible price and on the best obtainable terms;
- (c) Occupancy of Units - Until sale, each owner shall continue to occupy his Unit notwithstanding that as a result of termination he no longer owns the specific Unit. He shall pay as rent for the Unit occupied his share of the total expenses of the project, whether he occupies the Unit or not, so long as the Unit is fit for occupation;
- (d) Responsibility for Mortgages - Each owner shall continue to be responsible for payment of all monies due from time to time under mortgages that were formerly charges against his Unit;
- (e) Election of Officers and Government of Property - If more than one hundred and eighty (180) days elapse before sale, the election of Directors and Officers and all other provisions of the By-laws relating to the government of the Property shall continue in the same way as if the project were still governed by the Act.

ARTICLE X ADMINISTRATION AND GENERAL

10.01 - METHODS OF VOTING

Whenever the provisions of the Act, this Declaration, the By-laws, or the Common Element Rules require a vote of owners, unless specifically otherwise specified, each owner may vote in person at a meeting or by proxy, or by affixing his signature to the resolution on which the vote is to be taken. He may vote in this way either for or against any resolution, notwithstanding that the provision requiring the vote indicates that the vote is to be at a meeting.

10.02 - RIGHTS OF ENTRY

- (a) In case of an emergency, an agent or agents of the Corporation, may, without notice enter onto a Bare Land Unit at any time, for the purpose of correcting any condition which results in damage to the Property, or loss to the Property. The Corporation or anyone authorized by it may determine whether or not an emergency exists;
- (b) If any owner shall not personally be present to grant entry to his Bare Land Unit, the Corporation or its agent or agents, may enter upon such Bare Land Unit without rendering it, or them liable to any claim or cause of action for damages by reason thereof; provided that they exercise reasonable care;
- (c) The rights and authority hereby reserved to the Corporation, its agent or any insurer or its agents do not impose any responsibility or liability whatever for the care or supervision of any Bare Land Unit except as specifically provided in this Declaration or the By-laws.

10.03 - PASSING OR AMENDING BY-LAWS

By-laws of the Corporation shall be passed or amended at a meeting of the Unit owners called for that purpose by an affirmative vote of no less than sixty-seven (67%) percent of the owners.

10.04 - CONSENT TO BY-LAWS

Any By-law may be passed by the Corporation without a meeting, provided the consent to the By-law by Unit owners, who own one hundred (100%) percent of the Common Elements is endorsed thereon.

10.05 - AMENDING DECLARATION

This Declaration shall be amended at a meeting of the Unit owners called for that purpose by an affirmative vote of not less than ninety (90%) percent of the owners.

10.06 - RESOLUTION OF CONFLICT OF PROVISIONS

In the event of a conflict between the provisions of the Act and those of the Declaration, the By-laws, the Common Element Rules, or the Architectural Committee Rules the provisions of the Act shall govern; subject to the Act, the provisions of the Declaration shall govern; subject to the Act and the Declaration, the provisions of the By-laws shall govern. Provisions of the Common Element Rules and Architectural Committee Rules shall only be valid so long as they are not in conflict with anything in the Act, the Declaration, or the By-laws.

10.07 - BINDING EFFECT OF CONDOMINIUM DOCUMENTS

This Declaration and the By-laws of the Corporation and any other rules and regulations of the Corporation shall, insofar as they are intended to be binding on the owners and other persons interested in the condominium project, remain binding after the termination on all such persons to the same extent, as if all such persons had signed the original Declaration, By-laws and other rules and regulations of the Corporation.

10.08 - UNITS, SUBJECT TO DECLARATION, BY-LAWS AND RULES

All present and future owners, tenants and residents of Units, their families, guests, invitees or licensees, shall be subject to and shall comply with the provisions of this Declaration, the By-laws, and any other rules and regulations of the Corporation.

The acceptance of a deed or transfer, or the entering into of a lease, or the entering into occupancy of any Unit, shall constitute an agreement that the provisions of this Declaration, the By-laws, and any other rules and regulations of the Corporation, are accepted and ratified by such owner, tenant, resident, or other person aforesaid, and all of such provisions shall bind any person having, at any time, any interest or estate in such Unit as though such provisions were recited and stipulated in full in each and every such deed or transfer or lease or occupancy agreement.

10.09 - SEVERABILITY OF PROVISIONS

The provisions hereof shall be deemed independent and severable, and the invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

10.10 - WAIVER

The failure to take action to enforce any provision contained in the Act, this Declaration, the By-laws or any other rules and regulations of the Corporation irrespective of the number of violations or breaches which may occur, shall not constitute a waiver of the right to do so thereafter, nor be deemed to abrogate or waive any such provision.

10.11 - NOTICE

Except as herein otherwise set forth, any notice, direction or other instrument required or permitted herein may be given, if served personally, by delivering same to the party to be served, or to any officer of the party to be served, or may be given by ordinary mail, postage prepaid, addressed to the Corporation at its address for service herein, to each owner at his respective Unit or at such other address as is given in writing by the owner to the Corporation for the purpose of notice, and to each mortgagee who has notified the Corporation of its interest in the Property at such address as such mortgagee shall from time to time advise the Corporation of in writing; and if mailed as

- aforesaid, the same shall be deemed to have been received and to be effective on the second business day following the day on which it was mailed.

10.12 - VOTE OF MORTGAGEE - NOTICE OF MEETINGS

Where a mortgage of a Unit contains a provision that authorizes the mortgagee to exercise the right of the Unit owner to vote or to consent at any meeting of Unit owners, and where the mortgagee desires to exercise such right, the following provisions shall apply:

(i) written notice of the mortgage, and the address for service of notices upon the mortgagee, shall be delivered or sent by prepaid registered post by or on behalf of the mortgagee to the office of the Corporation. The notice may state limitations acceptable to the mortgagee on the right of the mortgagee to exercise the right of the Unit owner to vote or consent as aforesaid;

(ii) the Corporation shall be bound from the date of receipt of such notice until further notice to treat the mortgagee as the Unit owner for the purpose of exercising the right of the Unit owner to vote or consent in accordance with (and as limited by) the terms of the notice, and thereafter the mortgagee shall be given notice of all meetings of the Unit owners in accordance with the provisions for meeting notices set out in the By-laws of the Corporation.

10.13 - ADDRESS FOR SERVICE

The address for service on the Corporation is:

Pelican Harbour Resorts
C/O Rudolf Dyke
305 McKay Avenue
Winnipeg, Manitoba

10.14 - HEADINGS

The headings do not form part of the Declaration, but are inserted for convenience of reference only.

10.15 - CONSTRUCTION OF DECLARATION

This Declaration is to be read with all changes of number and gender required by the context.

10.16 - EFFECTIVE DATE

This Declaration shall take effect upon registration.

IN WITNESS WHEREOF, the Declarant has executed this Declaration the 15th day of February, A.D. 1995

PELICAN HARBOUR RESORTS

Per



President - Rudolf Dyke

Per



Secretary - Robert G. Gervais

Schedule "A"

to a Condominium Declaration executed by
Pelican Harbour Resorts Ltd., on the 15th day of February, A.D. 1995

Parcel A Plan 32199 WLTO
in Fractional Section 35, Fractional West 1/2
Section 36 and NW 1/4 Section 25-25-8 EPM
and closed Government Road Allowance.
Exc thereout all mines and minerals.

1390937