

EXHIBIT "5"

ARTICLES OF INCORPORATION FOR  
THE TOWERS CONDOMINIUM ASSOCIATION, INC.

The undersigned Subscribers by these Articles associate themselves for the purpose of forming a corporation not for profit pursuant to the laws of the State of Florida, and hereby adopt the following Articles of Incorporation:

ARTICLE 1

NAME

The name of the corporation shall be THE TOWERS CONDOMINIUM ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the "Association", these Articles of Incorporation as the "Articles", and the By-Laws of the Association as the "By-Laws".

ARTICLE 2

PURPOSE

The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act (the "Act") for the operation of that certain condominium located in Lee County, Florida, and known as The Towers Condominium (the "Condominium").

ARTICLE 3

DEFINITIONS

The terms used in these Articles shall have the same definitions and meaning as those set forth in the Declaration of the Condominium to be recorded in the Public Records of Lee County, Florida, unless herein provided to the contrary, or unless the context otherwise requires.

ARTICLE 4

POWERS

The powers of the Association shall include and be governed by the following:

- 4.1 General. The Association shall have all of the common-law and statutory powers of a corporation not for profit under the Laws of Florida that are not in conflict with the provisions of these Articles or of the Act.

charges against members as Unit Owners, and to use the proceeds thereof in the exercise of its powers and duties.

- (b) To buy, own, operate, lease, sell and trade both real and personal property as may be necessary or convenience in the administration of the Condominium.
- (c) To maintain, repair, replace, reconstruct, add to, and operate the Condominium property and other property acquired or leased by the Association for use by Unit Owners.
- (d) To purchase insurance upon the Condominium property and insurance for the protection of the Association, its officers, directors, and members as Unit Owners.
- (e) To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Condominium property and for the health, comfort, safety and welfare of the Unit Owners.
- (f) To approve or disapprove the leasing, transfer, mortgaging, ownership and possession of units as may be provided by the Declaration.
- (g) To enforce by legal means the provisions of the Act, the Declaration, these Articles, the By-Laws, and the rules and regulations for the use of the Condominium property.
- (h) To contract for the management of the Condominium and any facilities used by the Unit Owners, and to delegate to the party with whom such contract has been entered into all of the powers and duties of the Association except those which require specific approval of the Board of Directors or the membership of the Association. In exercising this power, the Association may contract with affiliates of itself and the Developer.
- (i) To employ personnel to perform the services required for proper operation of the Condominium.

4.3 Condominium Property. All funds and the titles of all properties acquired by the Association and their proceeds shall be held for the benefit and use of the members in accordance with the provisions of the Declaration, these Articles, and the By-Laws.

4.4 Distribution of Income. The Association shall make no distribution of income to its members, directors

ARTICLE 5

MEMBERS

- 5.1 Membership. The members of the Association shall consist of all of the record owners of units in the Condominium, and after termination of the Condominium shall consist of those who were members at the time of the termination and their successors and assigns.
- 5.2 Assignment. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit for which that share is held.
- 5.3 Voting. On all matters upon which the membership shall be entitled to vote, there shall be only one vote for each Unit, which vote shall be exercised or cast in the manner provided by the Declaration and By-Laws. Any person or entity owning more than one Unit shall be entitled to one vote for each Unit owned.
- 5.4 Meetings. The By-Laws shall provide for an annual meeting of members, and may make provision for regular and special meetings of members other than the annual meeting.

ARTICLE 6

TERM OF EXISTENCE

The Association shall have perpetual existence.

ARTICLE 7

SUBSCRIBERS

The names and addresses of the subscribers to these Articles are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Peter E. Bright	2301 McGregor Boulevard Fort Myers, Florida 33902
James L. Goetz	2301 McGregor Boulevard Fort Myers, Florida 33902
Norman A. Hartman, Jr.	2301 McGregor Boulevard Fort Myers, Florida 33902

removal from office of officers, for filling vacancies, and for the duties of the officers. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

President:	Peter E. Bright
Vice President and Assistant Secretary:	James L. Goetz
Secretary-Treasurer:	Norman A. Hartman, Jr.

ARTICLE 9

DIRECTORS

- 9.1 Number and Qualification. The property, business and affairs of the Association shall be managed by a board consisting of the number of directors determined by the By-Laws, but which shall consist of not less than three (3) directors. Directors need not be members of the Association or residents of a unit in the Condominium.
- 9.2 Duties and Powers. All of the duties and powers of the Association existing under the Act, the Declaration, these Articles and the By-Laws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by Unit Owners when such approval is specifically required.
- 9.3 Election; Removal. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.
- 9.4 Term of Developer's Directors. The Developer of the Condominium shall appoint the members of the first Board of Directors who shall hold office for the periods described in the By-Laws.
- 9.5 First Directors. The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected and have qualified are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Peter E. Bright	2301 McGregor Boulevard Fort Myers, Florida 33902
James L. Goetz	2301 McGregor Boulevard Fort Myers, Florida 33902

be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a director, employee, officer or agent of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or misfeasance or malfeasance in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application, that despite the adjudication of liability, but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

10.2 Expenses. To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 10.1 above or in defense of any claims, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.

10.3 Approval. Any indemnification under Section 10.1 above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 10.1 above. Such determination shall be made (a) by the Board of Directors by a majority vote of a

- 10.4 Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article.
- 10.5 Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of members or otherwise, both as to action in his official capacity while holding such office or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors and administrators of such person.
- 10.6 Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

## ARTICLE 11

### BY-LAWS

The first By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded by the directors and members in the manner provided in the By-Laws.

## ARTICLE 12

### AMENDMENTS

Amendments to these Articles shall be proposed and adopted in the following manner:

- 12.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered.

providing the approval is delivered to the secretary at or prior to the meeting. The approvals must be either

- (a) by not less than 50% of the votes of the entire membership of the Association and by not less than 66 2/3% of the Board of Directors; or
- (b) by not less than 80% of the votes of the entire membership of the Association; or
- (c) by not less than 100% of the Board of Directors.

12.3 Limitation. Provided, however, that no amendment shall make any changes in the qualifications for membership nor in the voting rights or property rights of members, nor any changes in Sections 4.3, 4.4, and 4.5 of Article 4, entitled "Powers", without approval in writing by all members and the joinder of all record owners of mortgages upon units. No amendment shall be made that is in conflict with the Act or the Declaration, nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of or reserved to the Developer, or an affiliate of the Developer, unless the Developer shall join in the execution of the Amendment.

12.4 The Developer may amend these Articles consistent with the provisions of the Declaration allowing certain amendments to be effected by the Developer alone.

12.5 Recording. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of the applicable Florida Statutes, and a copy certified by the Secretary of State shall be recorded in the public records of Lee County, Florida.

### ARTICLE 13

#### INITIAL REGISTERED OFFICE ADDRESS AND NAME OF REGISTERED AGENT

The initial registered office of this corporation shall be at 2301 McGregor Boulevard, Fort Myers, Florida 33902, with the privilege of having its office and branch offices at other places within or without the State of Florida. The initial registered agent at that address shall be PETER E. BRIGHT.

IN WITNESS WHEREOF, the subscribers have affixed their signatures the days and years set forth below.

OFF. REC. 1411 PG 1315

STATE OF )  
COUNTY OF ) ss:

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of January, 1980, by PETER E. BRIGHT.

Joni Middleton  
Notary Public, State of

My Commission Expires:  
8-11-82

STATE OF )  
COUNTY OF ) ss:

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of January, 1980, by JAMES L. GOETZ.

Joni Middleton  
Notary Public, State of

My Commission Expires:  
8-11-82

STATE OF )  
COUNTY OF ) ss:

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of January, 1980, by NORMAN A. HARTMAN, JR.

Joni Middleton  
Notary Public, State of

My Commission Expires:  
8-11-82



EXHIBIT "6"

and

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THE TOWERS CONDOMINIUM ASSOCIATION, INC.

RULES AND REGULATIONS

1. The greens and walkways in front of the condominium units and the entranceways to the condominium units shall not be obstructed permanently or used for any purpose other than ingress to and egress from the condominium units.
2. Neither the exterior of a condominium unit nor the appurtenant patio or balcony, nor any other area appurtenant to a condominium unit, shall be painted, decorated or modified by any owner in any manner without prior consent of the Association, which consent may be withheld on purely aesthetic grounds within the sole discretion of the Association.
3. No article shall be hung from the doors or windows or placed upon the outside window sills of the condominium units.
4. No bicycles, scooters, baby carriages or similar vehicles or toys or other personal articles shall be allowed to stand in any of the common storage rooms, common areas or driveways, except in areas specifically designated by the board of directors.
5. No owner shall make any noises that will disturb or annoy the occupants of any of the other condominium units in the development or do anything which will interfere with the rights, comfort or convenience of other owners.
6. Each owner shall keep his condominium unit clean and in a good state of repair. No owner shall sweep or throw therefrom, or from the doors or windows thereof, any dirt or other substance.
7. No shades, awnings, window guards, light reflective materials, hurricane or storm shutters, ventilators, fans or air conditioning devices shall be used in or about the buildings except as shall have been approved by the Association, which approval may be withheld on purely aesthetic grounds within the sole discretion of the Association. The Association, acting through its initial Board of Directors, shall designate the color, type and specifications for all drapery liners to be used in all draperies which are exposed in any way to view from areas outside of any condominium unit, to the end that all of same shall be uniform in appearance.
8. Each condominium unit owner who plans to be absent from his unit during the hurricane season must prepare his unit prior to his departure by (a) removing all furniture, plants and other objects from his balcony or terrace and (b) designating a responsible firm or individual satisfactory to

10. All garbage and refuse from condominium units shall be deposited with care in garbage containers which shall be kept in such locations as the Association shall direct. Garbage and other refuse shall be stored and disposed of in accordance with further rules and regulations to be promulgated by the Association, to the end that there shall be a uniform procedure for storage and collection of same, so that no unit owner's garbage or refuse shall be or become a nuisance or annoyance to any other owner.

11. Water-closets and other water apparatus in the buildings shall not be used for any purposes other than those for which they were constructed, nor shall any sweepings, rubbish, rags, paper, ashes or any other article be thrown in the same. Any damage resulting from misuse of any water-closets or other apparatus shall be paid for by the owner in whose condominium unit it shall have been caused.

12. No owner shall request or cause any employee of the association to perform any private business of the owner.

13. Parents shall be responsible for the actions of their children who reside in the condominium.

14. Unit owners shall keep all pets on a leash, or shall carry such pets, when they are in the common areas of the condominium.

15. No unit owner shall maintain more than one pet (excluding tropical fish) in his unit at any time, and such pet may not weight more than twenty (20) pounds.

16. No unit owner shall bring upon the condominium property a truck, trailer, camper, van, boat or boat trailer.

17. No radio, "C.B." or television aerial or antenna shall be attached to or hung from the exterior of the condominium units, the common elements or limited common elements appurtenant thereto or the roof of any building in the condominium without the written consent of the Association. The Developer may provide a master television antenna system capable of serving each unit and, in such event, no other television aeriels or antennas shall be permitted. If a master television anetnoa system is provided, the cost of maintaining the system shall be a common expense of the Association, it being deemed a common element. No owner shall modify or add outlets to such a system without the prior written approval of the Association.

18. The agents of the Association and any contractor or workman authorized by the Association may enter any condominium unit at any reasonable hour of the day for any purpose permitted under the terms of the Declaration of Condominium and By-Laws of the Association. Except in case of emergency, entry will be made by pre-arrangement with the unit owner or occupant.

19. The Association may retain a master key to each condominium unit. No owner shall alter any lock or install a

20. All repairs, renovations, painting or other maintenance required or permitted to be done by the condominium unit owner shall be accomplished, done or performed only by personnel or firms approved by the Association.

21. No vehicle belonging to an owner shall be parked in such manner as to impede or prevent ready access to another owner's parking space. All owners will obey parking regulations which may be posted at the parking areas and driveways and any other traffic regulations promulgated in the future for the safety, comfort and convenience of all unit owners. No vehicle which cannot operate on its own power shall remain within the condominium property for more than 48 hours, and no repair of vehicles shall be made within the condominium property.

22. No owner shall unnecessarily blow any horn from any vehicle approaching or upon the condominium property.

23. No owner shall bring into his condominium unit any inflammable oils or fluids, such as gasoline, kerosene, naphtha or benzine, or other explosives or articles which may be extra hazardous to life, limb or property.

24. No owner shall be allowed to put his name on any entry of the condominium units or mail receptacles appurtenant thereto except in the place(s) and in the manner prescribed by the Association for such purpose.

25. Except as otherwise specified in the Declaration and By-Laws, all damage caused by any owner, or anyone as to whom the owner shall be responsible as contemplated by paragraph 33 hereof shall be repaired by and at the expense of such owner.

26. Complaints regarding management of the condominium units and grounds or regarding actions of other owners shall be made in writing to the Association.

27. Any consent or approval given under these rules and regulations by the Association shall be revocable at any time.

28. Common elements shall not be obstructed, littered, defaced or misused in any manner.

29. Payments of monthly assessments shall be made at such place as may be designated from time to time. Payments made in the form of checks shall be made to the order of THE TOWERS CONDOMINIUM ASSOCIATION, INC.

30. No outdoor cooking shall be permitted on the limited common elements, nor on the condominium property, except in such areas, if any, designated by the Board of Directors of the Association. If such cooking is permitted, the Association shall have the right to promulgate rules and regulations as to all aspects of such cooking.

31. Food and beverages may not be consumed on the condominium property outside of a condominium unit except on such areas as are designated by the Board of Directors of the

EXHIBIT "7"

ESTIMATED OPERATING BUDGET

	<u>Condominium Year</u>	<u>Condominium Month</u>	<u>Unit Year</u>	<u>Unit Month</u>
Electricity	11,000.00	916.67	106.80	8.90
Water, Sewer and Gas	11,000.00	916.67	106.80	8.90
Garbage	5,580.00	465.00	54.17	4.51
Insurance	3,400.00	283.33	33.01	2.75
Maintenance & Labor	25,000.00	2,083.33	242.72	20.23
Reserve	<u>12,000.00</u>	<u>1,000.00</u>	<u>116.50</u>	<u>9.71</u>
TOTALS:	67,980.00	5,665.00	660.00	55.00

NOTE: Maintenance is collected quarterly in advance in the amount of \$165.00 per unit.

There is income to the Association of approximately \$10,000.00 per year from washers and dryers which can be used as extra reserves.

EXHIBIT 8

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION 718.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE.

ANY PAYMENT LISTED UNDER PARAGRAPH 2(c) HEREIN WHICH IS IN EXCESS OF 10 PERCENT OF THE PURCHASE PRICE MADE TO DEVELOPER PRIOR TO CLOSING PURSUANT TO THIS CONTRACT MAY BE USED BY THE DEVELOPER FOR THE CONSTRUCTION OR PROVISION OF THE EXTRAS COVERED BY THIS CONTRACT.

AGREEMENT FOR SALE

THIS AGREEMENT is executed as of the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, by and between CONTINENTAL DEVELOPER and CONVERSIONS, INC., ("Seller"), and \_\_\_\_\_ ("Purchaser"), whose mailing address is: \_\_\_\_\_ County of \_\_\_\_\_, State of \_\_\_\_\_.

WITNESSETH:

1. THE UNIT. Seller agrees to sell and convey, and Purchaser agrees to purchase, Condominium Parcel Building \_\_\_\_\_, Unit \_\_\_\_\_ in The Towers Condominium (the "Condominium"), together with the exclusive use of Parking Space \_\_\_\_\_, according to the Declaration of Condominium therefor recorded (or to be recorded) in Official Record Book \_\_\_\_\_, Page \_\_\_\_\_, of the Public Records of \_\_\_\_\_ County, Florida, as amended.

2. PURCHASE PRICE AND TERMS OF PAYMENTS. The purchase price for the Unit that Seller agrees to accept and Purchaser agrees to pay shall be in the aggregate amount of \$ \_\_\_\_\_, payable by purchaser to seller as follows:

- (a) Advance deposits paid to date subject to collection \$ \_\_\_\_\_
- (b) An advance deposit of no later than \_\_\_\_\_ \$ \_\_\_\_\_
- (c) Extras (as described on Exhibit A) \$ \_\_\_\_\_
- (d) Approximate mortgage amount \$ \_\_\_\_\_
- (e) The balance of the purchase price shall be payable at closing of title by cash or cashier's check in the sum of \$ \_\_\_\_\_ subject to adjustments provided herein.

TOTAL: \$ \_\_\_\_\_

3. MORTGAGE. Purchaser agrees to apply for a mortgage from a lender selected by Seller or by Purchaser to set

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The following material on mortgages only appears if the blanks above have been filled in:

Purchaser agrees to submit his application for a mortgage from the lender selected by Seller or Purchaser within ten (10) days of the day Purchaser receives the application (if the lender is selected by Seller), or of the date hereof (if the lender is selected by Purchaser). Purchaser understands that the application must be fully completed and signed before it is returned and that all his answers must be truthful and complete. Purchaser will cooperate fully in obtaining the mortgage and will make a good faith attempt to qualify for the mortgage. Purchaser understands that additional information may be requested from time to time and agrees to supply it on the forms and applications provided him.

If purchaser has a spouse who has not signed this Agreement, Purchaser agrees to have his spouse sign the mortgage, note and other mortgage documents.

If the Unit is being purchased by a corporation, partnership or other organization, Purchaser agrees to obtain any personal endorsements or guaranties required.

In addition, Purchaser may be required to pay an installment of property taxes with each mortgage payment. This prepayment will be put in an "escrow account" so that it will be available to pay taxes when they become due.

If Purchaser does not qualify for the above mortgage with the Institutional Lender selected within thirty days of the date of application, then Seller will have three options in its sole discretion: (i) extend such thirty-day period at its sole option; (ii) Seller may substitute another institutional lender; (iii) Seller (or an affiliate of Seller) may give Purchaser the mortgage; or (iv) Seller may refund Purchaser's deposits (without interest). If Seller refunds the deposits, this Agreement will automatically be cancelled. No conditions on qualification which relate to any transaction outside of this Agreement shall be deemed to affect the qualification of Purchaser for such mortgage.

If Purchaser does not qualify with the institutional lender selected within such thirty-day (or extended) period for the full mortgage applied for, Purchaser agrees to accept the mortgage offered by the Institutional Lender (and pay the difference in cash) unless Purchaser gives Seller notice to the contrary within fifteen (15) days after Purchaser receives the offer. If Purchaser gives Seller such notice, Seller will have the same options as if Purchaser has failed to qualify for any mortgage. Purchaser acknowledges that if he is applying for a loan which is in excess of 80% of the purchase price, the Unit is being acquired as a primary residence.

4. INSPECTION STATEMENT. Purchaser shall be given a reasonable opportunity to examine his Unit with Seller's representative prior to closing of title, and at that time shall present to Seller a written statement signed by Purchaser accepting the Unit in its then existing condition except for actual defects in workmanship or materials supplied by Seller to Purchaser's order set forth in writing on such written statement. As to any items therein described which in Seller's opinion, are truly defects in workmanship and materials for which the Seller is responsible (keeping in mind the construction standards prevalent in Collier County relative to the type and price of Units contained in the Condominium), the Seller shall be obligated to correct the same at its cost within a reasonable period of time, but Seller's obligation to correct shall not be a ground for deferring the closing of title nor the imposition of any condition upon closing.

5. CLOSING OF TITLE. Closing of title shall be held at such place in County, Florida, and on such day and hour as Seller may designate to

Purchaser shall be entitled to possession of the Unit upon the closing of title and the mortgage, and his delivery of the above written statement, unless the Unit is under a lease acceptable to Purchaser.

6. TITLE. Title to the Unit shall be good and marketable and insurable subject only to the following:

- (a) Taxes for the year in which title is closed and thereafter;
- (b) Conditions, restrictions, reservations, limitations, easements and utility agreements of record or visible on the ground (Seller represents that none of the foregoing title conditions contain provisions for reversion or forfeiture of title in the event of violation, or impair substantially the intended use of the Unit);
- (c) All matters set forth in the Declaration and Exhibits thereto, as amended;
- (d) All standard printed exceptions on the title policy to be issued after closing.
- (e) Any unexpired leases acceptable to Purchaser.

If Seller is unable to deliver title as provided herein, Seller shall not be obligated to cure any objections or defects, but shall be afforded a reasonable time (not less than sixty (60) days) to do so; and if not cured, Purchaser may accept title in its then existing condition but without any reduction in the purchase price, or terminate this Agreement and receive a refund of all deposits (and, upon refund being made, Seller shall be released of any liability to Purchaser and this Agreement shall thereafter be null and void). If the Deed has been delivered and recorded before an impermissible title defect is discovered and such defect is not cured as above provided, Purchaser agrees to deliver title the Unit back to the Seller by duly executed Warranty Deed upon receipt of funds equivalent to the funds paid by Purchaser to acquire the Unit (as set forth in the Closing Statement) and the cancelled note and mortgage executed by the Purchaser (if any).

7. CLOSING CHARGES AND ADJUSTMENTS. Seller shall pay the cost of documentary stamps on the Warranty Deed, recording the Deed and the cost of an Owner's Title Insurance Policy (to be delivered after closing).

Current real estate taxes and governmental assessments against the Unit, Condominium Assessments, community facility charges, rents, and any other proratable items will be prorated as of the scheduled closing of title.

At closing, Purchaser shall make a contribution to the working capital of the condominium association in an amount equal to three (3) times the Unit's monthly assessment. Seller shall not be required to deliver an abstract to Purchaser.

8. DEFAULT. Should Purchaser fail to close on the title to the Unit as herein provided, or fail to perform any of the Purchaser's other obligations hereunder (including the timely making of either of the deposits provided in Paragraph 2 hereof), and such other obligation is not cured within five (5) days after notice thereof, Seller may, at its option, cancel this Agreement by notice to Purchaser. In such event, Purchaser's deposits and all other sums paid to Seller (including any interest earned thereon) shall be retained by Seller as liquidated and agreed damages for Purchaser's default, and all rights and privileges hereunder shall terminate. Seller has removed the Unit from the market and has incurred indirect expenses relative to sales with contracts

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ment, and the parties' rights hereunder, shall be null and void.

9. DAMAGE TO UNIT. If between the date of this Agreement and closing of title, the Unit is damaged by fire or other casualty, the following shall apply:

(a) Risk of loss to the Unit by fire or other casualty until closing of title as herein provided is assumed by Seller, but without any obligation by Seller to repair or replace such loss or damage to the Unit, this Agreement shall continue in full force and effect, and Purchaser shall not have the right to reject title or receive a credit against or abatement in the purchase price. In such event, Seller shall be entitled to a reasonable period of time within which to complete said repairs or replacement. Any proceeds received from insurance or in satisfaction of any claim or action in connection with such loss or damage shall (subject to the rights of the Board of Directors in the event the Declaration shall have been filed) belong entirely to Seller and if such proceeds shall be paid to Purchaser, Purchaser shall promptly upon receipt thereof turn same over to the Seller.

(b) If Seller notifies Purchaser that it does not elect to repair or replace any such loss or damage or in the event the Condominium Association does not resolve to make such repairs or replacement pursuant to the Declaration, then this Agreement shall be deemed cancelled and of no further force or effect, and Seller shall refund to Purchaser all monies deposited hereunder, whereupon the parties shall be released and discharged of all claims and obligations hereunder, except that if Purchaser is then in default hereunder, Seller shall retain all such deposits as and for liquidated damages.

10. PURCHASER'S RIGHT TO CANCEL. THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN FIFTEEN (15) DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM BY THE DEVELOPER UNDER SECTION 718.503, FLORIDA STATUTES. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN FIFTEEN (15) DAYS AFTER THE BUYER HAS RECEIVED ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

11. SELLER'S RIGHT TO CANCEL. Seller shall have the unconditional right to void this Agreement within forty-five (45) days after the execution of this Agreement by delivering written notice of the Seller's election to cancel to Purchaser. The foregoing shall be understood as a condition subsequent to the effectiveness of this Agreement. If seller does not obtain sales contracts on at least 50% of the units, Seller shall have the right to cancel this Contract.

12. MODIFICATIONS. Seller reserves the right to make any modifications or amendments to the Prospectus (including Exhibits thereto) prior to the closing of title which do not materially adversely affect the rights of the Purchaser hereunder. Purchaser's approval of any change in the prices or terms upon which Seller will sell remaining units shall not be required, and any such changes shall be at the sole discretion of Seller.

13. MAINTENANCE ASSESSMENTS. The Estimated Operating Budget contained in the Prospectus sets forth the estimated expenses of operating the Condominium during the fiscal year identified therein and each Unit's share thereof. The Budget is subject to modification at any time and from time to time to reflect changes in estimated expenses. Such modifications shall not affect Purchaser's obligation to purchase in accordance with the terms of this Agreement, nor shall Seller have any liability in the event actual expenses exceed the estimated expenses set forth in the Estimated Operating Budget.

15. ASSIGNMENT: BINDING EFFECT: RECORDING. Purchaser may not assign this Agreement without the prior written consent of Seller, and any purported assignment in violation hereof shall be a default hereunder and voidable at the option of Seller. This Agreement shall be binding on the parties' respective heirs, personal representatives, successors and permitted assigns. This Agreement may not be recorded, and any such recording shall be deemed a default.

16. SELLING AGENT. Purchaser represents to Seller that the only sales agent(s) with whom Purchaser has dealt in connection herewith is the "on premises" sales agent(s) located at the Seller's sales office, or cooperating brokers and Seller agrees to pay the commission earned by said sales agent and cooperating brokers (if any) pursuant to separate agreement.

17. NOTICE. Any notice to be given hereunder (including the cancellation notice described in Paragraph 10 hereof) shall be in writing and sent by registered or certified mail, return receipt requested, to the Purchaser at the address inserted on the face of this Agreement, and addressed to the Seller at \_\_\_\_\_ . Except as otherwise expressly provided herein, the date of mailing shall be deemed to be the date of the giving of notice, except that the date of actual receipt shall be the date of the giving of any notice of change of address.

18. PRIOR OCCUPATION. The Unit has been occupied prior to the date hereof.

19. CONDITION OF THE UNIT. Purchaser has inspected the Unit and is familiar with the physical condition thereof, Seller has not made and does not make any representations or warranties as to the physical condition, expenses, operation, maintenance, profits, rents, or use to which the Unit may be put, or any other matter or thing affecting or pertaining to the Unit, except as specifically provided in this Agreement, and Purchaser herein expressly acknowledges that he has inspected the Unit and agrees to take the same "AS IS", subject only to those conditions specifically set forth in this Contract and its exhibits. Purchaser acknowledges that Seller has afforded Purchaser the opportunity for a full and complete investigation, examination, and inspection of the Unit and agrees that Seller shall not be liable or bound in any manner by any verbal or written statement, representations, or information pertaining to the Unit or its use furnished by any agents, employee, or servants of Seller or any other person or entity unless the same are specifically set forth in this Agreement. Implied warranties of merchantability, fitness for a particular purpose and habitability are specifically disclaimed.

20. RECEIPT OF OFFERING MATERIALS. The parties acknowledge having executed this Agreement on the date set forth above, and that on or prior to such date, Purchaser received the Prospectus containing all documents required to be delivered to Purchaser by Florida Statutes Section 718.504. In the event that Purchaser elects to terminate this Agreement in accordance with the provisions of Paragraph 10 hereof, or this Agreement is terminated pursuant to any other provision hereof, Purchaser shall return the offering materials in the same condition he received them, ordinary wear and tear alone accepted or shall pay to Seller the sum of \$25.00 (which may be deducted from the deposit paid by Purchaser to the extent Purchaser is to receive a refund of such deposit) to defray Seller's cost and expense of preparation, printing and delivery of the materials.

21. SURVIVAL. The provisions hereof which are intended to have effect subsequent to closing of title shall survive such closing and delivery of the deed.

22. MISCELLANEOUS PROVISIONS.

(a) This Agreement shall constitute Purchaser's subscription to membership in the Condominium Association and his agreement to take subject to and fully perform each of the obligations and responsibilities imposed upon him as a member of the Condominium Association as set forth in the Declaration and Exhibits attached

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or appropriate by them to sell or lease units, all without charge or contribution; provided, however, that said activities shall be carried on in such a manner as will not unreasonably interfere with the unit owner's enjoyment of their property.

(d) The term "Purchaser" shall be read as "Purchasers" if two or more persons are purchasers, in which case their obligations shall be deemed joint and several. The terms used herein shall have the same meaning as in the Declaration.

(e) The use of the masculine gender in this Agreement shall be deemed to refer to the feminine or neuter gender, and the singular shall include the plural (and vice versa), wherever the context so requires.

(f) The captions in this Agreement are for convenience and reference only and in no way define, limit or describe the scope of this Agreement, or the intent of any provision hereof.

(g) All deposit monies collected pursuant hereto prior to closing shall be held in escrow with Peter Ellison Bright, Attorney at Law, 2301 McGregor Boulevard, Fort Myers, Florida 33901, pursuant to an escrow agreement, a copy of which is set forth in the Prospectus. The Purchaser may obtain a receipt for his deposit from the escrow agent upon request.

IN THE EVENT THAT PURCHASER ELECTS TO HAVE THE SELLER DO ANY INTERIOR REMODELING TO HIS UNIT PRIOR TO CLOSING, SELLER SHALL HAVE THE RIGHT TO USE CERTAIN DEPOSIT MONIES COLLECTED TO DO THE INTERIOR REMODELING (AS SPECIFIED ON THE FIRST PAGE AND LAST PAGE OF THIS AGREEMENT).

The Purchaser has the right to notify the escrow agent and file a complaint with the Division of Florida Land Sales and Condominium if there is a dispute between the Developer and the Purchaser as to disposition of the deposits held by the escrow agent. If the Purchaser defaults, the Developer shall receive the deposits and any interest earned thereon. At closing, deposits and interest earned shall be released to the Developer. If the Purchaser properly terminates this Agreement as provided herein and by law, the deposit, or such balance remaining after deductions made necessary by authorized remodeling work to the Unit, will be disbursed within 45 days of such termination, together with interest earned, if any.

(h) Time shall be of the essence hereof.

(i) If any provision hereof is held invalid or unenforceable, such holding shall not affect any of the other provisions of this Agreement, all of which shall remain in full force and effect.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the date first given above.

NOTE: BEFORE YOU SIGN THIS AGREEMENT, READ IT AND THE PROSPECTUS CAREFULLY. YOU ARE HEREBY ADVISED SPECIFICALLY THAT THIS AGREEMENT CONTAINS REFERENCE TO CERTAIN CLOSING COSTS (paragraphs 3 and 7), AND INFORMATION RESPECTING SELLING AGENTS (paragraph 16). YOU ARE FURTHER ADVISED THAT THE PROSPECTUS CONTAINS OTHER IMPORTANT INFORMATION, INCLUDING BUT NOT LIMITED TO, THE PERIOD DURING WHICH THE DEVELOPER WILL CONTROL THE CONDOMINIUM ASSOCIATION. FLORIDA STATUTES SECTION 718.302 ALSO CONTAINS IMPORTANT INFORMATION RESPECTING THE RIGHT TO CANCEL CERTAIN CONTRACTS ENTERED INTO BY THE CONDOMINIUM ASSOCIATION BEFORE CONTROL IS TRANSFERRED TO UNIT OWNERS OTHER THAN THE DEVELOPER.

SEEK PROFESSIONAL ADVISE.

ANY PAYMENT LISTED UNDER PARAGRAPH 2(C) HEREIN WHICH IS IN EXCESS OF 10 PERCENT OF

1411 141327

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
(As to Purchaser)

CONTINENTAL DEVELOPER AND CONVERSIONS, INC.

BY: \_\_\_\_\_

1411 1328

EXHIBIT "9"

ESCROW AGREEMENT

FOR AND IN CONSIDERATION of the sum of One (\$1.00) Dollar and other good and valuable consideration to each other in hand paid the undersigned hereby agree as follows:

1. CONTINENTAL DEVELOPER AND CONVERSIONS, INC., hereby appoints PETER ELLISON BRIGHT, its escrow agent under Florida Statutes 718.202 for the purpose of receiving deposits for sales of Units in THE TOWERS CONDOMINIUM.

2. PETER ELLISON BRIGHT agrees to act as escrow agent and be bound by the terms of Florida Statute 718.202.

3. All deposits shall be placed in a non-interest bearing escrow account with a local commercial banking institution or local savings and loan association.

Witnesses:

Carla M. Baptiste

Peter Ellison Bright  
Peter Ellison Bright

Bonnie E. Califano

Joni Middleton

A. Richard Long  
Continental Developer and Conversions, Inc.

Bonnie Califano

EXHIBIT "10"

STATEMENT OF CONVERSION CONDITIONS

The Condominium will be created by conversion of existing improvements. All of such improvements, which include the units and other common facilities and are constructed of reinforced concrete foundation and floors, and concrete exterior walls finished with stucco, have been completed since 1971. Prior to submission to Condominium ownership, the improvements were used as a rental apartment. Predecessors of the Developer leased the apartments to tenants under leases of various terms. In accordance with inspections conducted on December 4, 1979, the roof and mechanical, electrical, plumbing and structural elements of the improvements are all in good condition and working order and comply with applicable local codes at the time of inspection, except as set forth on the inspection certificate. Such inspection certificate of a registered engineer to this effect is attached to this Statement as Exhibit 10-1.

THE REPRESENTATIONS AND OPINIONS STATED HEREIN WITH RESPECT TO THE ROOF AND MECHANICAL, ELECTRICAL, PLUMBING AND STRUCTURAL ELEMENTS, ARE BASED ENTIRELY ON THE ABOVE-REFERENCED CERTIFICATE AND REPORT AND THE DEVELOPER SPECIFICALLY DISCLAIMS ALL LIABILITY FOR THE INACCURACY OF SUCH REPRESENTATIONS AND OPINIONS TO THE EXTENT RESULTING FROM THE INACCURACY OF SUCH CERTIFICATE AND REPORT.

THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, RESPECTING THE CONDOMINIUM PROPERTY UNLESS THEY ARE STATED IN WRITING BY THE DEVELOPER. IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY AND HABITABILITY ARE SPECIFICALLY DISCLAIMED.

REF. 1411 pg1330

EXHIBIT 10-1

**W. R. FRIZZELL ARCHITECTS, INC.**  
ARCHITECTURE                      ENGINEERING                      PLANNING



December 5, 1979

RE: TOWERS APARTMENTS

In accordance with request, an inspection of the above named project was made by this office on 12/4/79. Items covered were roofing and flashings, air conditioning, electrical installation, plumbing and structural condition.

The project consists of a five story building of reinforced masonry and prestressed slabs containing 100 apartments. Covered parking is provided for 100 cars. Reinforced masonry is concrete block, prestressed slabs are Hoodaille.

Following are our findings:

ROOFING AND FLASHINGS:

Roofing appears to be in good shape, water does pond in some areas but does not indicate deterioration. Roof is drained by downspouts on the perimeter.

Flashings are in need of repair at the parapet walls. They do not fit tight to the roofing membrane and masonry is exposed to blowing rain. Tops of parapet walls do not have any cap flashing, perimeter beam is exposed. Trash chute caps do not fit tight to curbs, blowing rain could penetrate. Ends of expansion joints need repair, some have worked loose from wall flashings. Membrane at cant flashing does show signs of deterioration, coating has crystalized and peeling away. Some stack flashings (lead) do not cover top of stack, see 3" stack midway on south building. Others need peened down into stack to prevent leaking. Cant and wall flashing installation is poor at the south east elevator tower. Flashing is standing out away from membrane and corners are not closed.

AIR CONDITIONING COMPRESSORS:



switches are rusting and have one mounting hole exposed to the weather, could cause short. Compressors are mounted on various materials, rubber pads, styrofoam, and spring mounts, none of which are fastened to the wood sleepers. Three Luxaire Compressors on the west building are sitting on blocks of expanded bead board. Control wiring at compressors is unprotected laying on the deck and does not have grommets where entering compressor housing. Wire insulation is brittle but has not cracked. Compressors are mounted on wood sleepers in a pitch pan. Rock should be removed from pans and filled to the brim with asphalt. All but one compressor appear to be original equipment. Normal life expectancy would be two more years.

ELECTRICAL INSTALLATION:

Minimal inspection was possible, and appeared to be in good condition. Aluminum wire to ranges had been replaced.

PLUMBING:

Inspection is very minimal because very little is accessible. Water pipe is copper, waste pipe is ABS. Domestic water pump is provided.

STRUCTURAL CONDITIONS:

Structurally, the building looks good. Some cracks are visible on the first floor at corners, but they do not indicate settlement but shrinkage. Cracks in the topping on walkway slabs exist but present no structural problem. The building has been struck by lightning in two places at the high points of parapet walls and blown off small corners of perimeter beam. Marblecrete on exterior of building is in good shape. Some discoloration has occurred, and considerable mildew exists. Cracks that have been mentioned in the above and those that occur at inside corners of walls could be made water tight by use of a coating on the building, which would enhance the appearance.

Items observed:

1. Handrails on exterior balconies are loose.