

IN THE CIRCUIT COURT OF THE  
11th JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

COMPLEX LITIGATION DIVISION  
CASE NO.: \_\_\_\_\_

VIZCAYNE NORTH CONDOMINIUM  
ASSOCIATION, INC.,  
a Florida not-for-profit Corporation;

Plaintiff,

vs.

W.G. YATES & SONS CONSTRUCTION, CO,  
a Mississippi Corporation; FULLERTON-DIAZ ARCHITECTS INC.  
f/k/a THE FULLERTON GROUP, INC., a Florida Corporation;  
CRESPO CONSULTING ENGINEERING, INC.,  
a Florida Corporation; GRYPHON CONSTRUCTION,  
LLC, a Florida Limited Liability Company;  
M. ECKER & COMPANY OF FLORIDA, INC., a Florida  
Corporation; NAGELBUSH MECHANICAL INC., a Florida  
Corporation; NAGELBUSH PLUMBING, INC., a Florida  
Corporation; RC ALUMINUM INDUSTRIES, INC., a Florida  
Corporation; PRO-TECH CAULKING & WATERPROOFING,  
INC., a Florida Corporation; FORMRITE CONSTRUCTION, LLC, a  
Florida Limited Liability Company;  
EDD HELMS AIR CONDITIONING, INC., a Florida Corporation;  
R & L PAINTING, INC, a Florida Corporation;  
PARAGON PAINTING & WATERPROOFING, INC.,  
a Florida Corporation; PROIETTO PAINTING, INC., a Florida  
Corporation; FLORIDA CONCRETE UNLIMITED, INC., a Florida  
Corporation; DECKTIGHT ROOFING SERVICES INC., a Florida  
Corporation; STRUCTURAL PRESERVATION SYSTEMS, LLC,  
a Florida Limited Liability Company; HIGH-RISE INSTALLATIONS,  
INC., a Florida Corporation; SOUTHLAND FORMING, INC.,  
a Florida Corporation; THYSSENKRUPP ELEVATOR CORPORATION,  
a Georgia Corporation; KRAMA CONSTRUCTION, INC.,  
a Florida Corporation; G.C. ZARNAS & COMPANY, INC.,  
a Pennsylvania Corporation; SOUTHERN PAINTING, INC.,  
a Florida Corporation; PRONTO CORPORATION, a Florida Corporation  
Y.B. CONSTRUCTION, INC., a Florida Corporation;  
SEAMAN CORPORATION, an Ohio Corporation;  
CLW CONCRETE CONSTRUCTION, INC., a Florida Corporation;

Defendants.

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**COMPLAINT**

Plaintiff, VIZCAYNE NORTH CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit Corporation (the “ASSOCIATION), by and through its undersigned counsel, hereby sues Defendants, W.G. YATES & SONS CONSTRUCTION, CO., a Mississippi Corporation (“YATES”); FULLERTON-DIAZ ARCHITECTS, INC. f/k/a THE FULLERTON GROUP, INC., a Florida Corporation, (“FULLERTON”); CRESPO CONSULTING ENGINEERING, INC, a Florida Corporation (“CRESPO) IBA CONSULTANTS, INC., a Florida Corporation (“IBA”); THE RAUL PUIG GROUP, P.A., a Florida Corporation<sup>1</sup>; GRYPHON CONSTRUCTION, LLC, a Florida Limited Liability Company (“GRYPHON”); M. ECKER & CO. OF FLORIDA, INC., a Florida Corporation (“ECKER”); NAGELBUSH MECHANICAL INC., a Florida Corporation (“NAGELBUSH MECHANICAL”); NAGELBUSH PLUMBING, INC. a Florida Corporation (“NAGELBUSH PLUMBING”); RC ALUMINUM INDUSTRIES, INC., a Florida Corporation (“RC ALUMINUM”); PRO-TECH CAULKING & WATERPROOFING, INC., a Florida Corporation (“PRO-TECH”); FORMRITE CONSTRUCTION, LLC, a Florida Limited Liability Company (“FORMRITE”); EDD HELMS AIR CONDITIONING, INC. a Florida Corporation (“EDD HELMS”); R & L PAINTING, INC. a Florida Corporation (“R&L”); PARAGON PAINTING & WATERPROOFING, INC. a Florida Corporation (“PARAGON”); PROIETTO PAINTING, INC., a Florida Corporation (“PROIETTO”); FLORIDA CONCRETE UNLIMITED, INC., a Florida Corporation (“FCU”); DECKTIGHT ROOFING SERVICES INC., a Florida Corporation (“DECKTIGHT”); STRUCTURAL PRESERVATION SYSTEMS, LLC, a Florida

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<sup>1</sup> FULLERTON, CRESPO, IBA, PUIG, shall be collectively referred to herein as the “DESIGN PARTIES”.

Limited Liability Company (“SPS”); HIGH-RISE INSTALLATIONS, INC., a Florida Corporation (“HIGH-RISE”); SOUTHLAND FORMING, INC. a Florida Corporation (“SOUTHLAND”); THYSSENKRUPP ELEVATOR CORPORATION, a Georgia Corporation (“THYSSEN”); KRAMA CONSTRUCTION, INC., a Florida Corporation (“KRAMA”); G.C. ZARNAS & COMPANY, INC., a Pennsylvania Corporation (“ZARNAS”); SOUTHERN PAINTING, INC., a Florida Corporation (“SOUTHERN”); PRONTO CORPORATION, a Florida Corporation (“PRONTO”); Y.B. CONSTRUCTION, INC., a Florida Corporation (“YB”); SEAMAN CORPORATION, an Ohio Corporation (“SEAMAN”); and CLW CONCRETE CONSTRUCTION, INC., a Florida Corporation (“CLW”),<sup>2 3</sup> and alleges as follows:

**I. PARTIES, VENUE, AND JURISDICTION**

1. This is an action for damages in excess of \$15,000.00, exclusive of interest, attorneys’ fees and costs. This action is within the subject matter jurisdiction of this Court.

2. Venue lies in Miami-Dade County, Florida, insofar as: (a) the real property and improvements which are the subject of this litigation (including but not limited to the building, components, systems, improvements and Common Elements) are located in the City of Miami, County of Miami-Dade, Florida, at the following address: 244 Biscayne Blvd., Miami, Florida, 33132, known as VIZCAYNE NORTH, A Condominium (the “Property” and/or the “Project”); (b) the contracts subject to this litigation were either executed in and/or were to be performed in

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<sup>2</sup> GRYPHON, ECKER, NAGELBUSH MECHANICAL, NAGELBUSH PLUMBING, RC ALUMINIMUM, PRO-TECH, FORMRITE, EDD HELMS, R&L, PARAGON, PROIETTO, FCU, DECKTIGHT, SPS, HIGH RISE, SOUTHLAND, THYSSEN, KRAMA, ZARNAS, SOUTHERN, PRONTO, YB, SEAMAN, and CLW, shall collectively be referred to herein as the “CONSTRUCTION PARTIES”.

<sup>3</sup> In the course of discovery it may be determined that there are additional Defendants that were involved in the construction of the Subject Property and the Association hereby reserves the right to seek leave from the Court to amend the Complaint and add those additional Defendants.

Miami-Dade County, Florida; (c) the Certificate of Occupancy for the Project was issued by the City of Miami, in Miami-Dade County, Florida; (d) the causes of action set forth herein occurred and accrued in Miami-Dade County, Florida; and (e) the ASSOCIATION's principal place of business is located in Miami-Dade County, Florida, and the ASSOCIATION is authorized to do business and is doing business within Miami-Dade County, Florida.

3. Defendant YATES is a Mississippi Corporation with its principal address in Philadelphia, Mississippi, and was engaged as the General Contractor for the construction of the Subject Property and acted as the General Contractor for the Construction of the Project. At all times material, YATES was authorized to and was doing business in Miami-Dade County, Florida, and is otherwise, *sui juris* and subject to the personal jurisdiction of this Court.

4. Defendant FULLERTON is a Florida Corporation with its principal address in Miami-Dade County, Florida. FULLERTON was an architect of record for the Project. At all times material, FULLERTON was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

5. Defendant CRESPO is a Florida Corporation with its principal address in Hialeah, Florida. CRESPO acted as the civil engineer of record for the design and construction of the Subject Property. At all times material, CRESPO was authorized to and was doing business in Miami-Dade County, Florida, is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

6. Defendant IBA is a Florida Corporation with its principal address in Miami, Florida. IBA performed building envelope consulting and inspection services for the design and construction of the Subject Property. At all times material, IBA was authorized to and was doing business in Miami-Dade County, Florida, is otherwise *sui juris* and subject to the personal

jurisdiction of this Court.

7. Defendant PUIG is a Florida corporation with its principal address in Miami, Florida. PUIG acted as the threshold inspector of record for the design and construction of the Subject Property. At all times material, PUIG was authorized to and was doing business in Miami-Dade County, Florida, is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

8. Defendant GRYPHON is a Florida Limited Liability Company with its principal address in Dania Beach, Florida GRYPHON was a subcontractor to YATES that performed design, construction and/or installation services of the concrete shell and served as the project manager for the Subject Property. At all times material, GRYPHON was authorized to and was doing business in Miami-Dade County, Florida, is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

9. Defendant ECKER is a Florida Corporation with its principal address Fort Lauderdale, Florida. ECKER was a subcontractor to YATES that performed stucco and plaster construction and/or installation services throughout the Subject Property. At all times material, ECKER was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

10. Defendant NAGELBUSH MECHANICAL is a Florida corporation with its principal address in Broward County, Florida. NAGELBUSH MECHANICAL was a subcontractor to YATES that supplied and performed heating, ventilation and air conditioning (“HVAC”) related construction services and installation throughout the Subject Property. At all times material, NAGELBUSH MECHANICAL was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

11. Defendant NAGELBUSH PLUMBING is a Florida corporation with its principal address in Miami-Dade County, Florida. NAGELBUSH PLUMBING was a subcontractor to GRYPHON that supplied and performed plumbing related services and installation throughout the Subject Property. At all times material, NAGELBUSH PLUMBING was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

12. Defendant RC ALUMINUM is a Florida Corporation with its principal address in Miami-Dade County, Florida. RC ALUMINUM was a subcontractor to YATES that manufactured and installed of Aluminum Windows, Sliding Glass Doors and Glass Balcony Railings throughout the Subject Property. At all times material, RC ALUMINUM was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

13. Defendant PRO-TECH is a Florida Corporation with its principal address in Broward County, Florida. PRO-TECH was a subcontractor to YATES that furnished and performed waterproofing and caulking construction services throughout the Subject Property. At all times material, PRO-TECH was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

14. Defendant FORMRITE is a Florida Corporation, with its principal address in Pasco County, Florida. FORMRITE was a subcontractor responsible for performing the concrete formwork throughout the Subject Property. At all times material, FORMRITE was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

15. Defendant EDD HELMS is a Florida corporation with its principal address in

Broward County, Florida. EDD HELMS was a subcontractor to YATES that supplied and performed heating, ventilation and air conditioning (“HVAC”) related services, repairs, replacements, and installation throughout the Subject Property. At all times material, EDD HELMS was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

16. Defendant R&L is a Florida Corporation, with its principal address in Fort Lauderdale, Florida. R&L was a painting subcontractor responsible for painting, waterproofing and stucco construction services throughout the Subject Property. At all times material, R&L was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

17. Defendant PARAGON is a Florida Corporation, with its principal address in Miramar, Florida. PARAGON was one of the subcontractors responsible for construction services related to paint and stucco throughout the Subject Property. At all times material, PARAGON was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

18. Defendant PROIETTO is a Florida Corporation, with its principal address in Fort Lauderdale, Florida. PROIETTO was one of the subcontractors responsible for construction services related to paint and stucco throughout the Subject Property. At all times material, PROIETTO was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

19. Defendant FCU is a Florida Corporation, with its principal address in Miami, Florida. FCU was a subcontractor responsible for performing the concrete shell work throughout the Subject Property. At all times material, FCU was authorized to and was doing business in

Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

20. Defendant DECKTIGHT is a Florida Corporation with its principal address in Broward County, Florida. DECKTIGHT was a subcontractor to YATES that performed roof installation and construction services at the Subject Property. At all times material, DECKTIGHT was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

21. Defendant SPS is a Maryland Limited Liability Company, with its principal address in Columbia, Maryland. SPS was a subcontractor to GRYPHON that performed concrete construction services throughout the Subject Property. At all times material, SPS was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

22. Defendant HIGH RISE is a Florida Corporation, with its principal address in Miami, Florida. HIGH RISE was a subcontractor responsible for installation of Windows & SGDs throughout the Subject Property. At all times material, HIGH RISE was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

23. Defendant SOUTHLAND is a Florida Corporation, with its principal address in West Palm Beach, Florida. SOUTHLAND was subcontractor to GRYPHON that performed formwork construction services throughout the Subject Property. At all times material, SOUTHLAND was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

24. Defendant THYSSEN is a Georgia Corporation with its principal address in Fulton



County, Georgia. THYSSEN was a subcontractor to YATES that performed elevator services and/or installed elevator components throughout the Subject Property. At all times material, THYSSEN was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

25. Defendant KRAMA is a Florida Corporation with its principal address in Pinecrest, Florida. KRAMA was a subcontractor to YATES that performed door and finish hardware installation throughout the Subject Property. At all times material, KRAMA was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

26. Defendant ZARNAS is a Pennsylvania Corporation with its principal address in Bethlehem, Pennsylvania. ZARNAS was a subcontractor to YATES that performed exterior and interior painting services throughout the Subject Property. At all times material, ZARNAS was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

27. Defendant SOUTHERN is a Florida corporation with its principal address in Coral Springs, Florida. SOUTHERN was a painting subcontractor that performed exterior and interior painting services throughout the Subject Property. At all times material, SOUTHERN was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

28. Defendant PRONTO is a Florida Corporation with its principal address in West Palm Beach, Florida. PRONTO was a subcontractor responsible for construction services and/or furnishing of materials related to showers and bathtubs throughout the Subject Property. At all times material, PRONTO was authorized to and was doing business in Miami-Dade County,

Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

29. Defendant YB is a Florida Corporation with its principal address in Hialeah, Florida. YB was a subcontractor responsible for construction services related to concrete components throughout the Subject Property. At all times material, YB was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

30. Defendant SEAMAN is an Ohio Corporation with its principal address in Wooster, Ohio. SEAMAN was a subcontractor responsible for the supply and/or installation of the roofing system and components at the Subject Property. At all times material, SEAMAN was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

31. Defendant CLW is a Florida corporation with its principal address in Fort Myers, Florida. CLW was a subcontractor to GRYPHON responsible for concrete shell work and remediation throughout the Property during construction. At all times material, CLW was authorized to and was doing business in Miami-Dade County, Florida and is otherwise *sui juris* and subject to the personal jurisdiction of this Court.

## **II. GENERAL ALLEGATIONS COMMON TO ALL COUNTS**

32. The ASSOCIATION is a Florida not-for-profit Corporation and is separately organized, existing and submitted to condominium ownership pursuant to the provisions of Chapter 718, Florida Statutes (hereinafter referred to as the “Condominium Act”).

33. The ASSOCIATION, as a condominium association, is the entity responsible for the management and operation of the Condominium which is the subject of this suit, which consists of that property submitted to condominium ownership pursuant to the Declaration of Vizcayne

North, A Condominium (the “North Declaration”), as recorded in Official Records Book (“ORB”) 26632 at Pages 2644-2808, as amended, of the Public Records of Miami-Dade County, Florida, including all exhibits thereto. A true and correct copy of the North Declaration is attached hereto as **Exhibit “A”**.<sup>4</sup>

34. The Property includes four hundred and nine (409) units (the “Units”) and Common Elements appurtenant to the Units and serving all residents living at the Property, including but not limited to hallways, a lobby, balconies, elevators and elevator banks and the Building’s(as defined below) exterior components and roof, as well as ancillary structures and improvements, all to the extent designated Common Elements by the Declaration (the “Common Elements”), and all located within or comprising significant portions of one (1) residential luxury high-rise building (the “Building”).

35. The Property and its Common Elements also include their own respective heating, ventilation and cooling systems (the “HVAC Systems”), which services the Property and its residents.

36. The Units are individually owned by Unit Owners who are members of the ASSOCIATION pursuant to its Declaration by virtue of such ownership (“Unit Owners”).

37. The Unit Owners also own the Common Elements of the respective condominium(s) in which their Units are located in appurtenant fractional shares and become members of the ASSOCIATION, as applicable, by virtue of their ownership of a Unit in such association pursuant to the North Declaration.

38. The Subject Property is located in Downtown Miami, Florida, a desirable and

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<sup>4</sup> All exhibits referenced in this Complaint shall be filed with the Clerk of Court under separate cover.

cosmopolitan location consisting of numerous luxury high-rise condominium towers within sight of the Florida Inter-coastal waterway and in close proximity to the ocean.

39. Non-party, CABI DOWNTOWN, LLC (“DEVELOPER”), was once the Owner and remains the original Developer of the Subject Property. DEVELOPER recorded or caused to have recorded the North Declaration in the Public Records of Miami-Dade County, Florida, thereby creating the ASSOCIATION.

40. DEVELOPER reserved certain rights, privileges and duties pursuant to the North Declaration in its capacity as both Developer and/or Declarant, as those terms are respectively defined in the North Declaration, and the Florida Condominium Act or Homeowners’ Association Act (Chapter 720, Fla. Stat. *et. seq.*), as applicable.

41. DEVELOPER was a “Developer” as that term is statutorily defined in the Condominium Act, and as such, had certain statutory obligations and restrictions regarding Developer’s ongoing control and operation of the ASSOCIATION, and provided various statutory warranties and implied warranties of fitness and merchantability with respect to the Subject Property.

42. From 2007 to 2010, DEVELOPER partially constructed the Property; however, the DEVELOPER never completed such construction. Instead, in 2010, DEVELOPER filed for bankruptcy in the U.S. Bankruptcy Court (see below), wherein the Debtor/ DEVELOPER’s interests in the Property, and the ASSOCIATION were assigned to non-party RW 244 BISCAYNE RES, LLC (“RW”).

43. At all times material prior to DEVELOPER’s bankruptcy, DEVELOPER offered Units for sale within the Subject Property in the ordinary course of business.

44. On or about November 24, 2010, Defendant RW acquired the DEVELOPER’s

entire inventory of unsold parcels in the ASSOCIATION (the “Bulk Transfer”) pursuant to an approved Plan of Liquidation in the bankruptcy proceeding styled Cabi Downtown, LLC, Case No. 09-27168-BKC-LMI (the “Bankruptcy”).

45. In furtherance of the Bulk Transfer, RW received an assignment of various rights and privileges of the DEVELOPER with regard to the ASSOCIATION, as more particularly set forth and described in that Distressed Condominium Relief Act Assignment and Agreement recorded in Official Records Book 27524, Page 4353-4360, in the Official Records of Miami-Dade County (the “Assignment of Developer Rights”).

46. Additionally, in furtherance of the Bulk Transfer, and as mandated by the Bankruptcy, RW received an assignment of various rights and privileges of the DEVELOPER with regard to the construction of the Property, including defect claims and warranty claims against the various sub-contractors involved in the DEVELOPER’s pre-bankruptcy phase of the construction.

47. Prior to the Bankruptcy, in furtherance of DEVELOPER’s construction of the Property, DEVELOPER entered into that certain Standard Form of Agreement Between Owner and Architect (AIA Document B141) with Defendant FULLERTON for architectural design and administration duties with respect to the construction of the Subject Property (the “Owner/Architect Agreement”), a true and correct copy of which is attached hereto and incorporated by reference herein as **Exhibit “B”**. **Exhibit B has not yet been located in the ASSOCIATION’s records, but which shall be available in discovery from DEVELOPER, YATES or FULLERTON.**

48. Pursuant to Article 12, section 12.5 of the Owner/Architect Agreement, DEVELOPER had the right to assign the Owner/Architect Agreement at a future date. Upon

information and belief, DEVELOPER did assign the Owner/Architect Agreement to RW in accordance with said Agreement, or assigned its rights as Declarant to RW, which encompassed the right to sue for breach of the Owner/Architect Agreement.

49. On or about July 5, 2005, DEVELOPER and YATES entered into that certain Agreement Between Owner and Contractor for the Construction of the Subject Property, including all Contract Documents, Conditions of the Contract, Exhibits and Addendums attached thereto and incorporated by reference therein, and all authorized Modifications thereto (collectively, the “Prime Contract”). A copy of the Prime Contract is attached hereto and incorporated by reference herein as **Exhibit “C”**.

50. Thereafter, YATES entered into various subcontract agreements with the CONSTRUCTION PARTIES (sometimes referred to herein as the “Subcontractors”) for the supplying of materials and for the performance of installation and construction services for the Subject Property.

51. Pursuant to the Condominium Act and the Declaration, control of the ASSOCIATION’s governing Board of Directors was required to be transferred/turned over control to the membership other than DEVELOPER or RW upon the occurrence of any one of those statutory benchmarks for such transfer/turnover, as set forth within the Condominium Act and the Declaration, respectively (“Turnover”).

52. Indeed, on or about December 18, 2013, RW turned over control of the ASSOCIATION to the Unit Owners other than RW (the “Turnover Date”).

53. Following the Bulk Transfer and subsequent completion of the Project, and Turnover, on or about November 29, 2015, RW executed an Assignment of Construction Rights (the “Assignment of Rights”), whereby RW assigned to the ASSOCIATION any and all of RW’s

rights to make claims regarding any construction and/or design defects in, and/or damages to, the Subject Property, if any, including claims both known and unknown, asserted and un-asserted, alleged or threatened, suspected and unsuspected, discovered and undiscovered, latent and patent, whether presently existing or arising hereafter that relate to, arise out of, or are in any way connected with, the design or construction of the Subject Property, including without limitation those claims that could be made pursuant to contract, statute (including *Fla. Stat.* Chapter 558), tort, or common law (collectively, the “Assigned Claims”).

54. All causes of action herein asserted by the ASSOCIATION concern matters of common interest to the Unit Owners, which matters include, without limitation, the ASSOCIATION’s respective Common Elements, the roofs and structural components of the Property, all mechanical, electrical and plumbing components serving the Building and/or the Property, the HVAC Systems serving the Property, and all other matters commonly affecting and of common interest to the Unit Owners, as applicable.

55. The ASSOCIATION brings this action in its own name and as the lawful representative of the class of its respective Unit Owners, and as the entity responsible for the operation, maintenance, and repair of the Property, as applicable, and pursuant to the authority set forth in Florida Statutes §§ 718.111(2), 718.111(3), and pursuant to Florida Rule of Civil Procedure 1.221.

56. YATES and the CONSTRUCTION PARTIES were obligated to ensure that: (a) Construction was performed in accordance with the filed and approved plans and specifications; (b) Construction complied with all applicable Florida and local building codes and zoning regulations; and (c) Construction was sound and in accordance with standards of good workmanship and all express and implied warranties of fitness for the uses intended,

merchantability and other applicable statutory, express and/or implied warranties.

57. The DESIGN PARTIES were obligated to ensure that: (a) the designs, plans and specifications for the Construction were in accordance with the Florida Building Code and proper design practices; (b) the Construction complied with all applicable local building codes and zoning regulations; (c) the designs, plans and specifications for the Construction were in accordance with the Declaration; (d) the designs for the Construction were in accordance with the filed and approved plans and specifications; (e) the completed Construction was in accordance with the filed and approved plans and specifications; (f) the completed Construction was in accordance with standards of good workmanship and all statutory, express and implied warranties of fitness for the uses intended, merchantability and other applicable statutory, express and/or implied warranties; (f) the design, plans and specifications were sound and in accordance with standards of good workmanship and all statutory, express and implied warranties of fitness for the uses intended, merchantability and other applicable statutory, express and/or implied warranties.

58. FULLERTON, as the architect of record had a duty to the ASSOCIATION and its Unit Owners to design the building and Common Elements, in accordance with the Florida Building Code and proper design practices for a luxury high rise condominium tower in Aventura, Florida.

59. FULLERTON, as the architect of record who prepared the designs for and administered the Project, respectively, had a duty to the ASSOCIATION and the Unit Owners to design the specifications for the Project in accordance with the Condominium Documents and all statutory legislation and/or municipal and administrative regulations, including but not limited to the applicable Florida Building Codes. FULLERTON was obligated to ensure that: (a) the design of the Project was in accordance with the filed and approved plans and specifications; (b) the



design complied with all applicable building codes and zoning regulations; and (c) the design was sound and in accordance with the standards of good workmanship and proper design practices for a luxury high rise condominium tower in Aventura, Florida, and applicable statutory, express and/or implied warranties.

60. Prior to the Turnover Date, non-party RW controlled the ASSOCIATION in all aspects including but not limited to maintenance, management and operation of the Property, as applicable.

61. Following the Turnover Date, with Unit Owners in control of the ASSOCIATION, the ASSOCIATION commissioned a report from a qualified Florida Professional to identify the design and construction defects and deficiencies existing throughout the Subject Property.

62. Specifically, in or around March 2015, the ASSOCIATION was furnished a Condominium Report prepared by Atkins Engineering, Inc. (“Atkins”), setting forth the various design defects and construction deficiencies related to the ASSOCIATION, many of which were latent in nature, and which existed during the period DEVELOPER and subsequently RW controlled the ASSOCIATION, prior to the Turnover Date, and which are still affecting the Property (the “Atkins NT Report”). A true and complete copy of the Atkins NT Report is incorporated herein in its entirety and is attached hereto as **Exhibit “D”** and has been provided to the Defendants along with the ASSOCIATION’s written Notice of Claim pursuant to Chapter 558, Florida Statutes (“Chapter 558 Notices”), on or about May 19, 2015 and October 8, 2015.

63. YATES, the DESIGN PARTIES, and the CONSTRUCTION PARTIES owed a duty to the ASSOCIATION and their Unit Owners to construct the Project in accordance with standards of good workmanship for a luxury high-rise tower in Miami, Florida, the filed and approved plans and specifications for such work, the North Declaration, including but not limited

to any filed and approved plans and specifications attached to the North Declaration as an exhibit, applicable building codes, as well as the standard Contract of Purchase and Sale entered into by the Unit Owners for their respective units in the ASSOCIATION, and the Condominium Prospectus and sales materials, including the Declaration and its exhibits as incorporated therein (the “Offering Prospectus”).

64. Certain of the damages for which the ASSOCIATION seeks recovery were to components or portions of the Property other than the defective components themselves that are distinct from the particular component causing such damage (collectively and throughout this Complaint, any property damaged by the failure of a distinct portion or component of the Building, as opposed to the particular defective component from which such damage arose, shall be referred to as the “Other Property”).

65. The cause in fact and proximate cause of damages to the Other Property, is a breach of the statutory, express and/or implied warranty, a violation of the applicable building code, and/or improper design and/or construction of the structural, waterproofing, life safety, mechanical, electrical, plumbing, and ventilating components, elements, systems, and improvements of the Subject Property, which resulted in damage to the Other Property.

66. These design and/or construction defects and deficiencies in various components of the Property respectively, including but not limited to the structural, waterproofing, life-safety, mechanical, electrical, plumbing, and heating ventilating and air conditioning systems and components, are described in detail in the Atkins NT Report.

67. These defects and deficiencies are additionally evidenced by the Defendants’ failure to comply with the filed and approved permitted plans and specifications; the failure to comply with the standards of good workmanship; the failure to comply with express

representations of YATES, the DESIGN PARTIES and the CONSTRUCTION PARTIES; the failure to comply with the express terms of the Condominium Documents; the failure to comply with the applicable building codes; and the failure to comply with statutory implied warranties, thus rendering these components, elements, systems and/or improvements un-merchantable and/or unfit for the purpose(s) and/or use(s) intended.

68. The existence or causes of many of these defects are not readily recognizable by persons who lack special knowledge and/or training. Several of the defects listed below are hidden by components or finishes and they are latent, such that the ASSOCIATION, in the exercise of reasonable diligence, did not discover the existence or cause of the defects until after receipt of the Atkins NT Report, as applicable, and/or was led to believe by the Defendants that all said defects would be or had been corrected. All of the major defects and/or deficiencies described herein still remain at the Property, as identified in the Atkins NT Report, and the Defendants have been notified of said defects and/or deficiencies and, to date, have failed to remedy and/or repair same.<sup>5</sup>

69. The following construction and design defects and resulting damage to other property are merely a representative sample of the various defects and damage affecting the Property, and are not intended to, nor do they serve to limit and/or waive any of the various defects identified in the Atkins NT Report, or any additional latent defects and/or property damage which requires further investigation and/or testing to identify and which have not been discovered nor should have been discovered with the exercise of due diligence:

- a. **Windows & Sliding Glass Doors (“SGDs”)**: YATES, FULLERTON,

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<sup>5</sup> The ASSOCIATION reserves the right to supplement each category of the defects specified herein and/or stated within the Atkins NT Report, upon further testing, investigation and analysis. The reference to certain defects, deviations and/or violations in reference to a specific discipline or category within either the Atkins NT Report or this Complaint, shall be without limitation and subject to change or further clarification.

CRESPO, IBA, PUIG, GRYPHON, RC, KRAMA, HIGH RISE, PRO-TECH, their contractors and/or subcontractors failed to design and/or install the Windows & SGDs in accordance with applicable building codes (FBC 2411.3.3) and industry standards (ASTM E1105), as well as the drawings and specifications (A-814), and applicable standards of care. In particular, and as detailed in the Atkins NT Report, the defects include but are not limited to:

- i. Improper caulking and/or sealing of the exterior perimeter of the window and SGDs, causing water infiltration through the perimeter joints;
- ii. Improper manufacturing of the glazing gasket of the windows and SGDs, causing water infiltration through the glazing of the casement panel;
- iii. Improper installation of the primary sealant at the base and/or underneath the threshold of the windows and SGDs, causing water infiltration between the concrete and the bottom of the aluminum frame extrusions; and
- iv. Improper installation of sealant at the sill tank, causing water infiltration through the joint at the sill tank.

These defects and deficiencies, among other latent defects, are a substantial contributing factor to resulting damage to other parts of the Property which include, but are not limited to, corroded SGD and window extrusions, corroded and peeling paint at the door handles and tracks, corroded fasteners, corroded and broken hardware, deteriorated window gaskets, deterioration of the perimetrical drywall, and metal framing along with other building components for the Property. *See* Atkins NT Report. Repairs to these defects and the resulting property damage will be necessary, and the ASSOCIATION seeks to recover all costs and expenses associated with such repairs from YATES, FULLERTON, CRESPO, IBA, GRYPHON, RC, KRAMA, HIGH RISE,

PRO-TECH and/or their contractors and subcontractors who designed and/or performed the work.

- b. **Stucco Delamination and Corrosion:** YATES, FULLERTON, CRESPO, IBA, PUIG, GRYPHON, ECKER, PARAGON, PROIETTO, R&L, ZARNAS, SOUTHERN, their contractors and/or subcontractors failed to design and/or install the stucco in accordance with applicable building codes (FBC Section 2504.2, 2509), industry standards (ASTM C926, ASTM D6677-07, ASTM D4214 A), and applicable standards of care. In particular, and as detailed in the Atkins NT Report, the defects include, but are not limited to:
- i. Loose or delaminating stucco; and
  - ii. Incomplete, improperly finished, or corroded stucco located on the roof area.

These defects and deficiencies, among other latent defects, are a substantial contributing factor to resulting damage to other parts of the Property which include, but are not limited to, corroded and rusted stucco and paint and damage to the substrate where stucco delamination is occurring. *See* Atkins NT Report. Repairs to these defects and the resulting property damage will be necessary, including, but not limited to, removing any corroded stucco, repairing the substrate, and reapplying the stucco and finish to match existing stucco. The ASSOCIATION seeks to recover all costs and expenses associated with such repairs from YATES, FULLERTON, CRESPO, IBA, GRYPHON, ECKER, PARAGON, PROIETTO, R&L, ZARNAS, SOUTHERN and/or their contractors and subcontractors who designed and/or performed the stucco work.

- c. **Balcony Railing Post Pockets:** YATES, FULLERTON, CRESPO, IBA, PUIG, GRYPHON, RC, their contractors and/or subcontractors failed to design and/or install the balcony railing/post pocket work in accordance with applicable building codes and industry standards (ASTM E935-00(06)), the drawings and specifications (A-704, S6-4, S6-5), and applicable standards of care resulting in the post pockets not being flush with the top surface of the slab. *See* Atkins NT Report. These defects and deficiencies, among other latent defects, are a substantial contributing factor to resulting damage to other parts of the Property. Repairs to these defects and the resulting property damage will be necessary, including, but not limited to, filling post pockets with appropriate material such that the pockets are flush with the slab surface. The ASSOCIATION seeks to recover all costs and expenses associated with such repairs from YATES, FULLERTON, CRESPO, IBA, RC, and/or their contractors and subcontractors who designed and/or performed the balcony railing/post pocket work.
- d. **Balcony Slab Slope:** YATES, FULLERTON, CRESPO, IBA, PUIG, GRYPHON, FCU, FORMRITE, CLW, their contractors and/or subcontractors failed to design and/or install the balcony slab in accordance with applicable building codes and industry standards, the drawings and specifications (A-704, S6-4, S6-5), and applicable standards of care, resulting in defects and deficiencies, including, but not limited to, the balcony surface is not properly sloped for drainage. *See* Atkins NT Report. These defects and deficiencies, among other latent defects, are a substantial contributing factor to resulting

damage to other parts of the Property. Repairs to these defects will be necessary, including, but not limited to, sloping and finishing the balcony slab to properly drain water away from the building and the corresponding interior of units. The ASSOCIATION seeks to recover all costs and expenses associated with such repairs from YATES, FULLERTON, CRESPO, IBA, GRYPHON, FCU, FORMRITE, CLW, and/or their contractors and subcontractors who designed and/or performed the balcony slab slope work.

e. **Concrete:** YATES, FULLERTON, CRESPO, IBA, PUIG, GRYPHON, YB, FCU, FORMRITE, SPS, SOUTHLAND, CLW, their contractors and/or subcontractors failed to design and/or install the concrete shell work, formwork, and/or reinforcement work in accordance with applicable building codes and industry standards, the drawings and specifications, and applicable standards of care. In particular, and as detailed in the Atkins NT Report, the defects include, but are not limited to:

- i. Inadequate concrete coverage for the top and bottom reinforcing bars on the balcony slab edges; and
- ii. Concrete cracks at the midpoint of the stair flight due to the stair thickness being less than the 8" design at most crack points, in parapet walls at the roof, and above Stair 3 at the ground level of the North Tower.

*See* Atkins NT Report. These defects and deficiencies, among other latent defects, are a substantial contributing factor to resulting damage to other parts of the Property which include, but are not limited to, corrosion of reinforcing steel. Repairs to these defects and the resulting property damage will be necessary, and the ASSOCIATION seeks to recover all costs and expenses associated with such repairs from YATES, FULLERTON, CRESPO, IBA,

GRYPHON, YB, FCU, FORMRITE, SPS, SOUTHLAND, CLW, and their contractors and/or subcontractors who performed and/or designed the concrete work, formwork, and/or reinforcement work.

- f. **Post Tension Cables:** YATES, FULLERTON, CRESPO, IBA, PUIG, GRYPHON, YB, FCU, FORMRITE, SPS, SOUTHLAND, CLW, their contractors and /or subcontractors failed to design and/or install the post-tension cables in accordance with applicable building codes and industry standards (ACI 318-02 Sections 7.7.2.b and 7.5.2.1, ACI 423.6-01 Section 2.2.6.1 and 3.5.1.1), the structural drawings and specifications, and applicable standards of care. In particular, and as detailed in the Atkins NT Report, the defects include but are not limited to:

1. There is a lack of watertightness in the post-tension anchorage system due to the excessive length of the post-tension cable ends, preventing the cable caps from being fully seated; and
2. There are cable caps that were improperly installed on live cable ends rather than dead cable ends in violation of applicable building code requirements.

*See* Atkins NT Report. These defects and deficiencies, among other latent defects, are a substantial contributing factor to resulting damage to other parts of the Property and other work, including, but not limited to, damaged and corroded cable ends which must be repaired, as well as all “rip and tear” damage associated with repairing the cables, including removing stucco and cutting excessive cable ends. The ASSOCIATION seeks to recover all costs and expenses associated with such repairs from YATES, FULLERTON, CRESPO, IBA, GRYPHON, YB, FCU, FORMRITE, SPS, SOUTHLAND,



CLW and their contractors and/or subcontractors who performed and/or the post-tension cable work.

- g. **Stairs:** YATES, FULLERTON, CRESPO, GRYPHON, YB, FCU, FORMRITE, SPS, and SOUTHLAND, their contractors and/or subcontractors failed to designed and/or construct the concrete stairs in accordance with applicable building codes and industry standards (FBC 2001 Section 1007.3.1 through 1007.3.3), the drawings and specifications, and applicable standards of care. In particular, and as detailed in the Atkins NT Report, the defects include but are not limited to:

- i. The minimum tread length of 11” was not achieved in 64% of measured treads in the South Tower and 21% of the measured treads in the North Tower; and
- ii. In the South Tower, the minimum tread variance between the largest and smallest tread of 3/8” was not achieved in 50% of stair flights measured.

*See Atkins NT Report.* These defects and deficiencies, among other latent defects, are a substantial contributing factor to resulting damage to other parts of the Property. Repairs to these defects and the resulting property damage will be necessary and the ASSOCIATION seeks to recover all costs and expenses associated with such repairs from YATES, FULLERTON, CRESPO, GRYPHON, YB, FCU, FORMRITE, SPS, SOUTHLAND, and their contractors and/or subcontractors who designed and/or performed the concrete stairs work.

- h. **Roof:** YATES, FULLERTON, CRESPO, IBA, PUIG, DECKTIGHT, SEAMAN, their contractors and/or subcontractors failed to design and/or perform the roofing work in accordance with applicable building codes and

industry standards (TAS 125-96, TAS 124-95), the drawings and specifications (A-705), and applicable standards of care. In particular, and as detailed in the Atkins NT Report, the defects include but are not limited to:

- i. The roof membrane and anchors failed to achieve the required wind uplift when subjected to wind load uplift tests in four locations, and all four core samples of the roof membrane and insulate taken adjacent to the uplift testing locations were determined to be of a moist or damp condition; and
- ii. The roof slope does not achieve the required quarter-inch per foot in 50% of measured areas.

*See Atkins NT Report.* These defects and deficiencies, among other latent defects, are a substantial contributing factor to resulting damage to other parts of the Property. Repairs to these defects and the resulting property damage will be necessary and the ASSOCIATION seeks to recover all costs and expenses associated with such repairs from YATES, FULLERTON, CRESPO, IBA, DECKTIGHT, SEAMAN and their contractors and/or subcontractors who designed and/or performed the roofing work.

- i. **Showers & Bathtubs / Plumbing:** YATES, FULLERTON, CRESPO, NAGLEBUSH PLUMBING, PRONTO, their contractors and/or subcontractors failed to design and/or perform the installation of the unit showers and bathtubs in accordance with industry standards and applicable standards of care. In particular, and as detailed in the Atkins NT Report, the defects include but are not limited to:

1. There are signs of water intrusion at corners of showers and bathtubs, there are ceiling stains due to water leaks, and there are leaks originating from bathtub overflow drains that have been reported;
2. Floor drains located on the roof are in poor condition and

condensate lines are improperly directed into roof drains in violation of Section 1105 of the 2001 Florida Building Code,;

3. Pipe insulation in the Penthouse Mechanical Room is in poor condition and must be replaced; and
4. Both cold water shut-off valves are corroded in Unit 4908 and must be replaced.

*See Atkins NT Report.* These defects and deficiencies, among other latent defects, are a substantial contributing factor to resulting damage to other parts of the Property. Repairs to these defects and the resulting property damage will be necessary, including, but not limited to: (A) costs associated with investigating the source of water leaks, including destructive investigation of the bathtubs, and, ultimately, the remediation of same; and (B) removing and replacing damaged finishes. The ASSOCIATION seeks to recover all costs and expenses associated with such repairs from YATES, FULLERTON, CRESPO, NAGLEBUSH, PRONTO, and their contractors and/or subcontractors who performed and/or designed the work.

- j. **Heating, Ventilation, & Cooling (“HVAC”):** YATES, FULLERTON, CRESPO, EDD HELMS, NAGLEBUSH MECHANICAL, PRONTO, their contractors and/or subcontractors failed to design and/or perform the HVAC work in accordance with applicable building codes, industry standards, drawings and specifications, and applicable standards of care. In particular, and as detailed in the Atkins NT Report, the defects include but are not limited to:

1. The failure to achieve minimum required clearance of four inches around all sides of the HVAC equipment as required by Mechanical Drawings AC-45;

2. The failure to install and/or to install in the correct location balancing valves for condenser water supply as required by Mechanical Drawings AC-44;
3. The failure to provide proper HVAC return air openings as required by Mechanical Drawings AC-45, resulting in an insufficient amount of return air being provided to the HVAC closets;
4. The failure to install HVAC float switches as required by Mechanical Drawings AC-44;
5. The failure to install vent caps on the condensate drain lines as required by Mechanical Drawings AC-44;
6. Various miscellaneous mechanical deficiencies identified at Item 20 of the Atkins NT Report and additional deficiencies identified at Items 38 and 39;
7. The cooling tower flange connection and shut-off valve, which must be operable at all times, is in an advanced stage of corrosion;
8. Various additional HVAC deficiencies identified at Items 22-26 of the Atkins NT Report;
9. The failure to coat exterior surfaces of the condenser water pipes, resulting in leaks and the pipes being in an advanced stage of corrosion;
10. Rusted and/or missing exhaust wall cap bird screen in several North Tower units;
11. The floor clamp for the condenser water pipe support was installed in an improper location in Unit 4408, in violation of Section 305 of the 2001 Florida Building Code, *see id.* at Item 30;
12. The improper type of ceiling grille was furnished and installed on the ceiling of Unit 3902;
13. Air intake housing and bird screen on the roof level are in an advanced stage of corrosion due to a lack of stainless steel construction as required by drawing sheet AC-43; and
14. There are standpipes located in the stairwells that are unpainted, unsealed, and in contact with the stair slab in violation of industry standards and the standpipe slab penetration detail on

the drawings at sheet SP-40.

See Atkins NT Report. These defects and deficiencies, among other latent defects, are a substantial contributing factor to resulting damage to other parts of the Property. Repairs to these defects and the resulting property damage will be necessary. The ASSOCIATION seeks to recover all costs and expenses associated with such repairs from YATES, FULLERTON, CRESPO, EDD HELMS, NAGLEBUSH MECHANICAL, PRONTO, their contractors and/or subcontractors who performed and/or designed the HVAC work.

k. **Electrical:** YATES, FULLERTON, CRESPO, EDD HELMS, their contractors and/or subcontractors failed to perform and/or design the electrical work in accordance with applicable building codes, industry standards, drawings and specifications, and applicable standards of care. In particular, and as detailed in the Atkins NT Report, the defects include but are not limited to:

1. The wiring in the HVAC closets are unsecured and not contained in conduits as required by Mechanical Drawings AC-42;
2. The panel schedules and circuit breakers do not match for A/C in several units, for oven in Unit 4908, and for range in Unit 352, in violation of industry standards (NEC 408.4) and the drawings and specifications (E-1 General Notes); and
3. Various miscellaneous electrical defects were also observed in several units, including missing blank covers on circuits, crooked light fixtures, loose receptacles and switches, damaged exist sign, and faceplates missing from receptacles and switches, in violation of industry standards (NEC 300.31, 314.41, 110.12(A)); and
4. The failure to separate the elevator bank electrical services

between the North Tower and South Tower so that they may be separately metered.

*See* Atkins NT Report. These defects and deficiencies, among other latent defects, are a substantial contributing factor to resulting damage to other parts of the Property. Repairs to these defects and the resulting property damage will be necessary. The ASSOCIATION seeks to recover all costs associated with such repairs from YATES, FULLERTON, CRESPO, EDD HELMS, and their contractors and subcontractors who performed the electrical work.

1. **Drywall:** YATES, their contractors and/or subcontractors failed to perform the drywall work, failure to install the access panel for the dryer booster fan located over the ceiling in several units as required by Section 306 of the 2001 Florida Building Code. *See* Atkins NT Report. These defects and deficiencies, among other latent defects, are a substantial contributing factor to resulting damage to other parts of the Property. Repairs to these defects and the resulting property damage will be necessary. The ASSOCIATION seeks to recover all costs associated with such repairs from YATES and their contractors and subcontractors who performed the electrical work

70. Despite notice and demands made by the ASSOCIATION to the Defendants to correct the defects and deficiencies set forth above/herein, the Defendants have each failed and/or refused to properly and timely repair or correct those defects and deficiencies.

71. Many, if not all, of the defects, deficiencies, deviations and code violations detailed above have caused damaged to Other Property.

### **III. APPLICABLE FLORIDA BUILDING CODE**

72. Section 553.73, Florida Statutes (2001), prescribes the Florida Building Code as

one of the State minimum codes, which applies to the “design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities.” The Florida Building Code has been adopted in Miami-Dade County, Florida, and thus applies to and governs construction of the Subject Property.

73. Section 553.84, Florida Statutes (2001), provides:

Notwithstanding any other remedies available, any person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of a violation of this part or the state minimum building codes, has a cause of action in any court of competent jurisdiction against the person or party who committed the violation.

74. In particular, the following codes and standards are applicable to the design and construction of the Subject Property, without limitation, and as more fully detailed in the Atkins NT Report and below, were violated by the Defendants in designing and/or constructing the Subject Property:

- a. Florida Building Code, 2001 Edition with 2003 Revisions, sections 2411.3.3 (Atkins Item 2); section 2504.2 & 2509 (Atkins Item 3); section 1007.3.1 through 1007.3.3 (Atkins Item 8); section 3001 (Atkins Item 11); section 305 (Atkins Item 30); Section 306 (Atkins Item 32); Section 1105 (Atkins item 37);
- b. ASTM E 1105 (Atkins Item 2); C926, D6677-07, D4214 A (Atkins Item 3); ASTM E935-00(06) (Atkins Item 4);
- c. American Concrete Institute (ACI) Edition 318-02 sections 7.7.2.b, 7.5.2.1, and ACI Edition 423.6-01 sections 2.2.6.1 and 3.5.1.1 (Atkins Item 7);
- d. NEC Requirements sections 300-10 (Atkins Item 18); section 408.4 (Atkins Item 35); Section 300.31, 314.41, 110.12 (A) (Atkins Item 36);
- e. National Fire Protection Association (NFPA) 92 (Atkins Item 24);
- f. Florida Energy Efficiency Code 2001, Section 13.104 (Atkins Item 25);

75. Any and all conditions precedent to the filing of this action have been performed, have occurred, have been excused and/or have been waived.

76. As a result of the matters hereinafter described, the ASSOCIATION was required

to retain the services of HABER SLADE, P.A. to represent it in this cause and has bound and obligated itself to pay such firm a reasonable fee for its services.

**COUNT I**  
**BREACH OF CONTRACT/EXPRESS WARRANTY**  
**(YATES)**

77. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

78. On or about July 5, 2005, DEVELOPER and YATES entered into the Prime Contract. All capitalized terms not otherwise defined herein which are defined in the Prime Contract shall have the meaning set forth therein. A true and correct copy of those portions of the Prime Contract in the Plaintiffs' possession is attached hereto as **Exhibit "C"**<sup>6</sup>.

79. Pursuant to the Prime Contract, YATES expressly warranted the following, without limitation:

- a. That all materials and equipment furnished under the Contract would be of good quality and new unless otherwise required or permitted by the Contract Documents. *See* Prime Contract at Article 1 and General Conditions for Construction, § 3.5;
- b. That the Work would be free from defects not inherent in the quality required or permitted, and that the Work would conform to the requirements of the Contract Documents. *See* Prime Contract at Article 1 and General Conditions for Construction, § 3.5; and
- c. That the Work strictly complied with the Designs and Specifications for the Project. *See* Prime Contract at Article 1 and General Conditions for Construction, § 3.5.

80. YATES materially breached these express warranties under the Prime Contract by, without limitation:

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<sup>6</sup> To the extent additional Exhibits exist for the Prime Contract which are not attached but are pertinent to these proceedings, such exhibits could not be located by the Plaintiff but can be obtained through discovery of adverse parties in the instant action.



- a. Failing to ensure that the Work was performed free of defects not inherent in the quality required or permitted, as demonstrated by the various defects and deficiencies described herein;
- b. Failing to ensure that the materials and equipment furnished were of good quality and new and conformed to the requirements of the Contract Documents – for instance, portions of the railing post pockets are filled with incorrect material, which has resulted in premature deterioration and/or cracking of the concrete surrounding the railing post pockets and balcony edge; and
- c. Failing to ensure that the Work strictly complied with the Designs and Specifications for the Project.

81. In addition, YATES was obligated to supervise and direct the Work, using YATES' best skill and attention, bear sole responsibility for construction means, methods, techniques, sequences and procedures for coordinating all portions of the Work, and bear responsibility for any acts or omissions of YATES' employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of YATES or any of its Subcontractors. *See* Prime Contract at General Conditions for Construction, § 3.3.

82. Pursuant to the Prime Contract, YATES owed a non-delegable duty to ensure compliance with the express warranties and contractual requirements set forth in the Prime Contract.

83. YATES also materially breached these obligations under the Prime Contract by failing to adequately supervise and direct the Work using YATES' best skill and attention, failing to properly coordinate and sequence all portions of the Work, and failing to ensure that the acts or omissions of YATES' employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of YATES or any of its Subcontractors conformed to the requirements of the Contract Documents and/or was free of defects.

84. As a direct and proximate result of YATES' material breaches of contract and

express warranties, the ASSOCIATION has suffered and will continue to suffer direct, compensatory, actual consequential, and special damages in excess of approximately \$9 million, exclusive of interest and costs, including, but not limited to, the costs to correct, repair or replace defective work, damage to work of other contractors, and damage to the Subject Property and Other Property of the ASSOCIATION, as well as engineering, architectural and other professional expenses to investigate and remediate the defective work, damage to work of other contractors, and damage to the Subject Property and Other Property of the ASSOCIATION. *See* Atkins NT Report at **Exhibit D**.

**WHEREFORE**, the ASSOCIATION demands judgment against YATES for damages in excess of \$15,000.00, plus reasonable attorney's fees and all other reasonable costs incurred in connection with this action arising out of the Prime Contract and Contract Documents, which the ASSOCIATION is entitled to recover pursuant to the Prime Contract, plus costs and expenses associated with the ASSOCIATION's expert fees, and any other and further relief this Court deems just and proper.

**COUNT II**  
**BREACH OF CONTRACT/EXPRESS WARRANTY**  
**(GRYPHON)**

85. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

86. GRYPHON was a subcontractor who entered into a subcontract with YATES to physically construct and deliver to the ASSOCIATION all construction services related to the concrete shell throughout the Subject Property for the benefit of the Project and the ASSOCIATION and its Owners.

87. Pursuant to Paragraph 12 of the subcontract between GRYPHON and YATES,

GRYPHON provided a warranty to the owner of the Subject Property “that the materials and equipment furnished by GRYPHON will be of high quality, as specified, and new unless otherwise required or permitted by the Subcontract Documents, that the Work of these Subcontract Documents will be free from defects and that the Work will conform with the requirements of the Subcontract Documents.” A true and correct copy of subcontract agreement between YATES and GRYPHON (the “GRYPHON Subcontract”) is attached hereto as **Exhibit “E”**.

88. Similarly, Paragraph 12.2 warrants the work performed by GRYPHON against all deficiencies and defects in materials or workmanship as called for in YATES contract with DEVELOPER and the GRYPHON Subcontract, as is further specified therein.

89. Pursuant to the Assignment, the ASSOCIATION was assigned all of DEVELOPER’s rights in this subcontract through RW, including the warranties in Paragraphs 12 (i.e. – Sections 12.1 and 12.2) for the benefit of DEVELOPER as Owner.

90. GRYPHON breached these warranties by, among other things, failing to properly construct the concrete shell systems and components at the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

91. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair,

maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

92. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

93. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against GRYPHON for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES involved in concrete shell work based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT III**  
**BREACH OF CONTRACT/EXPRESS WARRANTY**  
**(ECKER)**

94. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

95. ECKER was a subcontractor and/or supplier who entered into a subcontract with YATES to physically construct the stucco and plaster components and systems at the Subject Property for the benefit of the Project and the ASSOCIATION and its Owners.

96. Pursuant to Paragraph 12 of the subcontract between ECKER and YATES, ECKER provided a warranty to the owner of the Subject Property “that the materials and equipment furnished by ECKER will be of high quality, as specified, and new unless otherwise required or permitted by the Subcontract Documents, that the Work of these Subcontract Documents will be

free from defects and that the Work will conform with the requirements of the Subcontract Documents.” A true and correct copy of subcontract agreement between YATES and ECKER (the “ECKER Subcontract”) is attached hereto as **Exhibit “F”**.

97. Similarly, Paragraph 12.2 warrants the work performed by ECKER against all deficiencies and defects in materials or workmanship as called for in YATES contract with DEVELOPER and the ECKER Subcontract, as is further specified therein.

98. Pursuant to the Assignment, the ASSOCIATION was assigned all of DEVELOPER’s rights in this subcontract through RW, including the warranties in Paragraphs 12 (i.e. – Sections 12.1 and 12.2) for the benefit of DEVELOPER as Owner.

99. ECKER breached these warranties by, among other things, failing to properly construct the stucco and plaster systems at the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

100. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

101. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

102. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against ECKER for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES involved in the stucco and plaster work based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT IV**  
**BREACH OF CONTRACT/EXPRESS WARRANTY**  
**(NAGELBUSH MECHANICAL)**

103. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

104. NAGELBUSH MECHANICAL was a subcontractor and/or supplier who entered into a subcontract with YATES to physically construct HVAC components and systems at the Subject Property for the benefit of the Project and the ASSOCIATION and its Owners.

105. Pursuant to Paragraph 12 of the subcontract between NAGELBUSH MECHANICAL and YATES, NAGELBUSH MECHANICAL provided a warranty to the owner of the Subject Property “that the materials and equipment furnished by NAGELBUSH MECHANICAL will be of high quality, as specified, and new unless otherwise required or permitted by the Subcontract Documents, that the Work of these Subcontract Documents will be free from defects and that the Work will conform with the requirements of the Subcontract Documents.” A true and correct copy of subcontract agreement between YATES and

NAGELBUSH MECHANICAL (the “NAGELBUSH MECHANICAL Subcontract”) is attached hereto as **Exhibit “G”**.

106. Similarly, Paragraph 12.2 warrants the work performed by NAGELBUSH MECHANICAL against all deficiencies and defects in materials or workmanship as called for in YATES contract with DEVELOPER and the NAGELBUSH MECHANICAL Subcontract, as is further specified therein.

107. Pursuant to the Assignment, the ASSOCIATION was assigned all of DEVELOPER’s rights in this subcontract through RW, including the warranties in Paragraphs 12 (i.e. – Sections 12.1 and 12.2) for the benefit of DEVELOPER as Owner.

108. NAGELBUSH MECHANICAL breached these warranties by, among other things, failing to properly construct the HVAC systems and components at the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

109. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

110. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

111. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against NAGELBUSH MECHANICAL for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES involved in the mechanical, electrical and plumbing work based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT V**  
**BREACH OF CONTRACT/EXPRESS WARRANTY**  
**(RC ALUMINUM)**

112. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

113. RC ALUMINUM was a subcontractor and/or supplier who entered into a subcontract with YATES to physically construct and deliver to the ASSOCIATION all of the Aluminum Windows, Sliding Glass Doors and Glass Balcony Railings at the Subject Property for the benefit of the Project and the ASSOCIATION and its Owners.

114. Pursuant to Paragraph 12 of the subcontract between RC ALUMINUM and YATES, RC ALUMINUM provided a warranty to the owner of the Subject Property “that the materials and equipment furnished by RC ALUMINUM will be of high quality, as specified, and new unless otherwise required or permitted by the Subcontract Documents, that the Work of these Subcontract Documents will be free from defects and that the Work will conform with the requirements of the Subcontract Documents.” A true and correct copy of subcontract agreement



between YATES and RC ALUMINUM (the “RC ALUMINUM Subcontract”) is attached hereto as **Exhibit “H”**.

115. Similarly, Paragraph 12.2 warrants the work performed by RC ALUMINUM against all deficiencies and defects in materials or workmanship as called for in YATES contract with DEVELOPER and the RC ALUMINUM Subcontract, as is further specified therein.

116. Pursuant to the Assignment, the ASSOCIATION was assigned all of DEVELOPER’s rights in this subcontract through RW, including the warranties in Paragraphs 12 (i.e. – Sections 12.1 and 12.2) for the benefit of DEVELOPER as Owner.

117. RC ALUMINUM breached these warranties by, among other things, failing to properly construct the Windows & SGDs and Glass Balcony Railings at the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

118. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

119. Routine maintenance of the areas, structural components, improvements and/or

Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

120. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against RC ALUMINUM for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES involved in Windows & SGDs and balcony railings upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT VI**  
**BREACH OF CONTRACT/EXPRESS WARRANTY**  
**(PRO-TECH)**

121. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

122. PRO-TECH was a subcontractor and/or supplier who entered into a subcontract with YATES to physically perform and deliver the waterproofing and caulking components for the benefit of the Project and the ASSOCIATION and its Owners.

123. Pursuant to Paragraph 12 of the subcontract between PRO-TECH and YATES, PRO-TECH provided a warranty to the owner of the Subject Property “that the materials and equipment furnished by PRO-TECH will be of high quality, as specified, and new unless otherwise required or permitted by the Subcontract Documents, that the Work of these Subcontract Documents will be free from defects and that the Work will conform with the requirements of the Subcontract Documents.” A true and correct copy of subcontract agreement between YATES and PRO-TECH (the “PRO-TECH Subcontract”) is attached hereto **as Exhibit “I”**.

124. Similarly, Paragraph 12.2 warrants the work performed by PRO-TECH against all

deficiencies and defects in materials or workmanship as called for in YATES contract with DEVELOPER and the PRO-TECH Subcontract, as is further specified therein.

125. Pursuant to the Assignment, the ASSOCIATION was assigned all of DEVELOPER's rights in this subcontract through RW, including the warranties in Paragraphs 12 (i.e. – Sections 12.1 and 12.2) for the benefit of DEVELOPER as Owner.

126. PRO-TECH breached these warranties by, among other things, failing to properly construct the waterproofing and caulking systems and components at the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

127. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

128. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

129. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against PRO-TECH for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES involved in the waterproofing and caulking based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT VII**  
**BREACH OF CONTRACT/EXPRESS WARRANTY**  
**(FORMRITE)**

130. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

131. FORMRITE was a subcontractor who entered into a subcontract with DEVELOPER/RW to perform all concrete and rebar restoration work at the Subject Property for the benefit of the Project and the ASSOCIATION and its Owners.

132. Pursuant to Paragraph 15 of the subcontract between FORMRITE and DEVELOPER/RW, FORMTIE provided a warranty to the owner of the Subject Property “that the materials and equipment furnished under this Contract shall be new and free from defects that all Work will be of good quality, free from faults and defects and in strict compliance with the Contract Documents. A true and correct copy of subcontract agreement between DEVELOPER/RW and FORMRITE (the “FORMRITE Subcontract”) is attached hereto as **Exhibit “J”**.

133. Similarly, Paragraph 15.2 warrants the work performed by FORMRITE against all deficiencies and defects in materials or workmanship.

134. Pursuant to the Assignment, the ASSOCIATION was assigned all of DEVELOPER’s rights in this subcontract through RW, including the warranties in Paragraphs 15

(i.e. – Sections 15.1 and 15.2) for the benefit of DEVELOPER as Owner.

135. FORMRITE breached these warranties by, among other things, failing to properly construct the concrete systems and components at the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

136. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

137. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

138. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against FORMRITE for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES involved in the fire protection systems and components work based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and

any other and further relief this Court deems just and proper.

**COUNT VIII**  
**BREACH OF CONTRACT/EXPRESS WARRANTY**  
**(EDD HELMS)**

139. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

140. EDD HELMS was a subcontractor who entered into a subcontract with DEVELOPER/RW to perform construction services related to MEP and MEP components at the Subject Property for the benefit of the Project and the ASSOCIATION and its Owners.

141. Pursuant to Paragraph 15 of the subcontract between EDD HELMS and DEVELOPER/RW, EDD HELMS provided a warranty to the owner of the Subject Property “that the materials and equipment furnished under this Contract shall be new and free from defects that all Work will be of good quality, free from faults and defects and in strict compliance with the Contract Documents. A true and correct copy of subcontract agreement between DEVELOPER/RW and EDD HELMS (the “EDD HELMS Subcontract”) is attached hereto as **Exhibit “K”**.

142. Similarly, Paragraph 15.2 warrants the work performed by EDD HELMS against all deficiencies and defects in materials or workmanship.

143. Pursuant to the Assignment, the ASSOCIATION was assigned all of DEVELOPER’s rights in this subcontract through RW, including the warranties in Paragraphs 15 (i.e. – Sections 15.1 and 15.2) for the benefit of DEVELOPER as Owner.

144. EDD HELMS breached these warranties by, among other things, failing to properly construct the MEP systems and components at the Subject Property (inclusive of Buildings, Units,

components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

145. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

146. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

147. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against EDD HELMS for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES involved in the fire protection systems and components work based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT IX**  
**BREACH OF CONTRACT/EXPRESS WARRANTY**  
**(PARAGON)**

148. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

149. PARAGON was a subcontractor who entered into a subcontract with DEVELOPER/RW to perform stucco repair and paint work at the Subject Property for the benefit of the Project and the ASSOCIATION and its Owners.

150. Pursuant to Paragraph 15 of the subcontract between PARAGON and DEVELOPER/RW, PARAGON provided a warranty to the owner of the Subject Property “that the materials and equipment furnished under this Contract shall be new and free from defects that all Work will be of good quality, free from faults and defects and in strict compliance with the Contract Documents. A true and correct copy of subcontract agreement between DEVELOPER/RW and PARAGON (the “PARAGON Subcontract”) is attached hereto as **Exhibit “L”**.

151. Similarly, Paragraph 15.2 warrants the work performed by PARAGON against all deficiencies and defects in materials or workmanship.

152. Pursuant to the Assignment, the ASSOCIATION was assigned all of DEVELOPER’s rights in this subcontract through RW, including the warranties in Paragraphs 15 (i.e. – Sections 15.1 and 15.2) for the benefit of DEVELOPER as Owner.

153. PARAGON breached these warranties by, among other things, failing to properly perform the stucco and painting construction work at the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those



defects and deficiencies identified in the Atkins Master Report. *See Exhibit D.*

154. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

155. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins Master Report has been performed by the ASSOCIATION at all times material hereto.

156. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against PARAGON for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES involved in the fire protection systems and components work based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT X**  
**BREACH OF CONTRACT/EXPRESS WARRANTY**  
**(DECKTIGHT)**

157. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

158. DECKTIGHT was a subcontractor and/or supplier who entered into a subcontract with YATES to physically construct and deliver to the ASSOCIATION the roofing system and

components at the Subject Property for the benefit of the Project and the ASSOCIATION and its Owners.

159. Pursuant to Paragraph 12 of the subcontract between DECKTIGHT and YATES, DECKTIGHT provided a warranty to the owner of the Subject Property “that the materials and equipment furnished by DECKTIGHT will be of high quality, as specified, and new unless otherwise required or permitted by the Subcontract Documents, that the Work of these Subcontract Documents will be free from defects and that the Work will conform with the requirements of the Subcontract Documents.” A true and correct copy of subcontract agreement between YATES and DECKTIGHT (the “DECKTIGHT Subcontract”) is attached hereto as **Exhibit “M”**.

160. Similarly, Paragraph 12.2 warrants the work performed by DECKTIGHT against all deficiencies and defects in materials or workmanship as called for in YATES contract with DEVELOPER and the DECKTIGHT Subcontract, as is further specified therein.

161. Pursuant to the Assignment, the ASSOCIATION was assigned all of DEVELOPER’s rights in this subcontract through RW, including the warranties in Paragraphs 12 (i.e. – Sections 12.1 and 12.2) for the benefit of DEVELOPER as Owner.

162. DECKTIGHT breached these warranties by, among other things, failing to properly construct the roofing systems and components at the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

163. As a direct and proximate result of the aforesaid breaches of warranty, Other

Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

164. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

165. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against DECKTIGHT for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES involved in the roofing work based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT XI**  
**BREACH OF CONTRACT/EXPRESS WARRANTY**  
**(THYSSEN)**

166. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

167. THYSSEN was a subcontractor and/or supplier who entered into a subcontract with YATES to physically construct and deliver to the ASSOCIATION elevator systems and components at the Subject Property for the benefit of the Project and the ASSOCIATION and its Owners.

168. Pursuant to Paragraph 12 of the subcontract between THYSSEN and YATES, THYSSEN provided a warranty to the owner of the Subject Property “that the materials and equipment furnished by THYSSEN will be of high quality, as specified, and new unless otherwise required or permitted by the Subcontract Documents, that the Work of these Subcontract Documents will be free from defects and that the Work will conform with the requirements of the Subcontract Documents.” A true and correct copy of subcontract agreement between YATES and THYSSEN (the “THYSSEN Subcontract”) is attached hereto as **Exhibit “N”**.

169. Similarly, Paragraph 12.2 warrants the work performed by THYSSEN against all deficiencies and defects in materials or workmanship as called for in YATES contract with DEVELOPER and the THYSSEN Subcontract, as is further specified therein.

170. Pursuant to the Assignment, the ASSOCIATION was assigned all of DEVELOPER’s rights in this subcontract through RW, including the warranties in Paragraphs 12 (i.e. – Sections 12.1 and 12.2) for the benefit of DEVELOPER as Owner.

171. THYSSEN breached these warranties by, among other things, failing to properly construct the elevator systems and components at the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See* **Exhibit D**.

172. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its

Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

173. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

174. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against THYSSEN for damages in excess of 15,000.00, apportioned among the various CONSTRUCTION PARTIES involved in the elevator systems work based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT XII**  
**BREACH OF CONTRACT/EXPRESS WARRANTY**  
**(KRAMA)**

175. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

176. KRAMA was a subcontractor and/or supplier who entered into a subcontract with YATES to physically construct and deliver to the ASSOCIATION all of the doors and finish hardware at the Subject Property for the benefit of the Project and the ASSOCIATION and its Owners.

177. Pursuant to Paragraph 12 of the subcontract between KRAMA and YATES, KRAMA provided a warranty to the owner of the Subject Property “that the materials and

equipment furnished by KRAMA will be of high quality, as specified, and new unless otherwise required or permitted by the Subcontract Documents, that the Work of these Subcontract Documents will be free from defects and that the Work will conform with the requirements of the Subcontract Documents.” A true and correct copy of subcontract agreement between YATES and KRAMA (the “KRAMA Subcontract”) is attached hereto as **Exhibit “O”**.

178. Similarly, Paragraph 12.2 warrants the work performed by KRAMA against all deficiencies and defects in materials or workmanship as called for in YATES contract with DEVELOPER and the KRAMA Subcontract, as is further specified therein.

179. Pursuant to the Assignment, the ASSOCIATION was assigned all of DEVELOPER’s rights in this subcontract through RW, including the warranties in Paragraphs 12 (i.e. – Sections 12.1 and 12.2) for the benefit of DEVELOPER as Owner.

180. KRAMA breached these warranties by, among other things, failing to properly construct the door and finish hardware components at the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See* **Exhibit D**.

181. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or

replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

182. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

183. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against KRAMA for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES involved in the doors and finish hardware work based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT XIII**  
**NEGLIGENCE**  
**(YATES)**

184. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

185. YATES was the general contractor of record for the construction of the Subject Property. YATES was responsible for overseeing and implementing the means and methods of construction for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by the Subcontractors for the construction of the Subject Property.

186. YATES owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the ASSOCIATION in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site

technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

187. YATES breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

188. Due to YATES' failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damage and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

189. As a direct and proximate result of YATES' breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which YATES is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against YATES for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and



any other and further relief this Court deems just and proper.

**COUNT XIV**  
**NEGLIGENCE**  
**(FULLERTON)**

190. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

191. FULLERTON was the architect of record for the construction of the Subject Property. FULLERTON was responsible for overseeing and designing the means and methods of construction for the Subject Property and overseeing the work performed by its Subcontractors and/or design professionals, and the materials supplied by the Subcontractors and/or design professionals for the construction of the Subject Property.

192. FULLERTON owed a duty to the ASSOCIATION to design and construct the Subject Property with materials free of defects and in conformance with applicable building codes and consistent with good construction and design practices and in accordance with applicable and accepted industry standards, and/or to perform its contractual and statutory duties, including but not limited to providing on-site technical and oversight services, to assure appropriate construction, design and installation of the materials and to do so with reasonable care and in a manner which assured that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

193. FULLERTON, breached its duty to the ASSOCIATION in that FULLERTON defectively oversaw, designed and/or constructed and/or provided defective materials in violation of applicable building codes and of good construction practice and industry standards, and/or failed

to perform their contractual duties, including inspections and using reasonable care to assure the construction, design and materials were properly installed and/or implemented in conformance with the applicable building codes, and in compliance with the approved plans and specifications.

194. Due to FULLERTON's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

195. As a direct and proximate result of FULLERTON's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which FULLERTON is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against FULLERTON for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XV**  
**NEGLIGENCE**  
**(CRESPO)**

196. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

197. CRESPO was the civil engineer of record for the construction of the Subject

Property. CRESPO was responsible for overseeing and designing the means and methods of construction for the Subject Property and overseeing the work performed by its Subcontractors and/or design professionals, and the materials supplied by the Subcontractors and/or design professionals for the construction of the Subject Property.

198. CRESPO owed a duty to the ASSOCIATION to design and construct the Subject Property with materials free of defects and in conformance with applicable building codes and consistent with good construction and design practices and in accordance with applicable and accepted industry standards, and/or to perform its contractual and statutory duties, including but not limited to providing on-site technical and oversight services, to assure appropriate construction, design and installation of the materials and to do so with reasonable care and in a manner which assured that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

199. CRESPO, breached its duty to the ASSOCIATION in that CRESPO defectively oversaw, designed and/or constructed and/or provided defective materials in violation of applicable building codes and of good construction practice and industry standards, and/or failed to perform their contractual duties, including inspections and using reasonable care to assure the construction, design and materials were properly installed and/or implemented in conformance with the applicable building codes, and in compliance with the approved plans and specifications.

200. Due to CRESPO's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in

accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

201. As a direct and proximate result of CRESPO's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which CRESPO is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against CRESPO for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XVI**  
**NEGLIGENCE**  
**(IBA)**

202. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

203. IBA performed building envelope consulting and inspection services for the construction of the Subject Property. IBA was responsible for overseeing and designing the means and methods of construction for the Subject Property and overseeing the work performed by its Subcontractors and/or design professionals, and the materials supplied by the Subcontractors and/or design professionals for the construction of the Subject Property.

204. IBA owed a duty to the ASSOCIATION to design and construct the Subject Property with materials free of defects and in conformance with applicable building codes and consistent with good construction and design practices and in accordance with applicable and

accepted industry standards, and/or to perform its contractual and statutory duties, including but not limited to providing on-site technical and oversight services, to assure appropriate construction, design and installation of the materials and to do so with reasonable care and in a manner which assured that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

205. IBA, breached its duty to the ASSOCIATION in that IBA defectively oversaw, designed and/or constructed and/or provided defective materials in violation of applicable building codes and of good construction practice and industry standards, and/or failed to perform their contractual duties, including inspections and using reasonable care to assure the construction, design and materials were properly installed and/or implemented in conformance with the applicable building codes, and in compliance with the approved plans and specifications.

206. Due to IBA's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

207. As a direct and proximate result of IBA's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which IBA is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against IBA for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XVII**  
**NEGLIGENCE**  
**(PUIG)**

208. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

209. PUIG was the threshold inspector for the construction of the Subject Property. PUIG was responsible for overseeing and designing the means and methods of construction for the Subject Property and overseeing the work performed by its Subcontractors and/or design professionals, and the materials supplied by the Subcontractors and/or design professionals for the construction of the Subject Property.

210. PUIG owed a duty to the ASSOCIATION to design and construct the Subject Property with materials free of defects and in conformance with applicable building codes and consistent with good construction and design practices and in accordance with applicable and accepted industry standards, and/or to perform its contractual and statutory duties, including but not limited to providing on-site technical and oversight services, to assure appropriate construction, design and installation of the materials and to do so with reasonable care and in a manner which assured that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

211. PUIG, breached its duty to the ASSOCIATION in that PUIG defectively oversaw, designed and/or constructed and/or provided defective materials in violation of applicable building

codes and of good construction practice and industry standards, and/or failed to perform their contractual duties, including inspections and using reasonable care to assure the construction, design and materials were properly installed and/or implemented in conformance with the applicable building codes, and in compliance with the approved plans and specifications.

212. Due to PUIG's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

213. As a direct and proximate result of PUIG's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which PUIG is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against PUIG for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XVIII**  
**NEGLIGENCE**  
**(GRYPHON)**

214. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

215. GRYPHON was a subcontractor to YATES for the construction of the Subject

Property. GRYPHON was responsible for overseeing and implementing the means and methods of construction of the concrete shell for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

216. GRYPHON owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications. GRYPHON breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

217. Due to GRYPHON's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue



to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

218. As a direct and proximate result of GRYPHON's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which GRYPHON is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against all Parties for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XIX**  
**NEGLIGENCE**  
**(ECKER)**

219. The ASSOCIATION repeats and re-alleges one (1) through seventy-six (76) above as though fully set forth herein.

220. ECKER was the stucco and plaster subcontractor for the construction of the Project. ECKER was responsible for overseeing, and implementing the means and methods of construction of the stucco and plaster systems and/or components for the Subject Property and overseeing the work performed by its Sub-subcontractors, for the construction of the stucco and plaster systems at the Subject Property.

221. ECKER owed a duty to the ASSOCIATION to design and construct the Subject Property with materials free of defects and in conformance with applicable building codes and consistent with good construction and design practices and in accordance with applicable and accepted industry standards, and/or to perform its contractual and statutory duties, including but not limited to providing on-site technical and oversight services, to assure appropriate

construction, design and installation of the materials and to do so with reasonable care and in a manner which assured that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

222. ECKER breached its duty to the ASSOCIATION in that it defectively oversaw, designed and/or constructed and/or provided defective materials in violation of applicable building codes and of good construction practice and industry standards, and/or failed to perform their contractual duties, including inspections and using reasonable care to assure the construction, design and materials were properly installed and/or implemented in conformance with the applicable building codes, and in compliance with the approved plans and specifications.

223. Due to ECKER's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein.

224. As a direct and proximate result of ECKER breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which ECKER is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against all Parties for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees,

and any other and further relief this Court deems just and proper.

**COUNT XX**  
**NEGLIGENCE**  
**(NAGELBUSH MECHANICAL)**

225. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

226. NAGELBUSH MECHANICAL was responsible for overseeing and designing the means and methods of construction of the HVAC system and/or components for the Subject Property and overseeing the work performed by its Subcontractors, designers and the materials supplied by the Subcontractors and/or design professionals for the construction of the Subject Property. NAGELBUSH MECHANICAL was responsible for overseeing and implementing the means and methods of construction of the HVAC system for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

227. NAGELBUSH MECHANICAL owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications. NAGELBUSH MECHANICAL breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes

and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

228. Due to NAGELBUSH MECHANICAL's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

229. As a direct and proximate result of NAGELBUSH MECHANICAL's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which NAGELBUSH MECHANICAL is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against all Parties for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXI**  
**NEGLIGENCE**  
**(NAGELBUSH PLUMBING)**

230. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

231. NAGELBUSH PLUMBING was responsible for overseeing and designing the means and methods of construction of the plumbing components for the Subject Property and overseeing the work performed by its Subcontractors, designers and the materials supplied by the Subcontractors and/or design professionals for the construction of the Subject Property. NAGELBUSH PLUMBING was responsible for overseeing and implementing the means and methods of construction of the plumbing system for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

232. NAGELBUSH PLUMBING owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

233. NAGELBUSH PLUMBING breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

234. Due to NAGELBUSH PLUMBING's failure to exercise a reasonable degree of

skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

235. As a direct and proximate result of NAGELBUSH PLUMBING's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which NAGELBUSH PLUMBING is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against all Parties for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXII**  
**NEGLIGENCE**  
**(RC ALUMINUM)**

236. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

237. RC ALUMINUM was the Aluminum Windows, Sliding Glass Doors and Glass Balcony Railings subcontractor for the construction of the Project. RC ALUMINUM was responsible for overseeing, implementing and designing the means and methods of construction of the window, sliding door, and glazing systems and/or components for the Subject Property and overseeing the work performed by its Sub-subcontractors, designers as well as the materials

supplied by the Subcontractors and/or design professionals for the construction of the window, sliding door, and glazing systems at the Subject Property.

238. RC ALUMINUM owed a duty to the ASSOCIATION to design and construct the Subject Property with materials free of defects and in conformance with applicable building codes and consistent with good construction and design practices and in accordance with applicable and accepted industry standards, and/or to perform its contractual and statutory duties, including but not limited to providing on-site technical and oversight services, to assure appropriate construction, design and installation of the materials and to do so with reasonable care and in a manner which assured that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

239. RC ALUMINUM breached its duty to the ASSOCIATION in that it defectively oversaw, designed and/or constructed and/or provided defective materials in violation of applicable building codes and of good construction practice and industry standards, and/or failed to perform their contractual duties, including inspections and using reasonable care to assure the construction, design and materials were properly installed and/or implemented in conformance with the applicable building codes, and in compliance with the approved plans and specifications.

240. Due to RC ALUMINIUM's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue

to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. See **Exhibit D**.

241. As a direct and proximate result of RC ALUMINUM breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which RC ALUMINUM is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against RC ALUMINUM for damages in the amount of \$15,000.00 for the Subject Property, in addition to the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXIII**  
**NEGLIGENCE**  
**(PRO-TECH)**

242. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

243. PRO-TECH was the Subcontractor to YATES that furnished and performed waterproofing and caulking services, throughout the Property for the construction of the Subject Property. PRO-TECH was responsible for overseeing and implementing the means and methods of construction of the waterproofing systems for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

244. PRO-TECH owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry



standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

245. PRO-TECH breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

246. Due to PRO-TECH's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

247. As a direct and proximate result of PRO-TECH's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which PRO-TECH is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against all Parties for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXIV**  
**NEGLIGENCE**  
**(FORMRITE)**

248. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

249. FORMRITE was the concrete formwork subcontractor for the construction of the Subject Property. FORMRITE was responsible for overseeing and implementing the means and methods of construction of the concrete for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

250. FORMRITE owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

251. FORMRITE breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual

duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

252. Due to FORMRITE's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

253. As a direct and proximate result of FORMRITE's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which FORMRITE is liable.

**WHEREFORE,** the ASSOCIATION demands judgment against FORMRITE for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXV**  
**NEGLIGENCE**  
**(EDD HELMS)**

254. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

255. EDD HELMS was a subcontractor who supplied and performed HVAC related

services, repairs, replacement, and installation as well as HVAC and electrical services for the construction of the Subject Property. EDD HELMS was responsible for overseeing and implementing the means and methods of construction of the electrical system for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

256. EDD HELMS owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

257. EDD HELMS breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

258. Due to EDD HELMS' failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in

accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

259. As a direct and proximate result of EDD HELMS breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which EDD HELMS is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against EDD HELMS Parties for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXVI**  
**NEGLIGENCE**  
**(R&L)**

260. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

261. R&L was a painting subcontractor for the construction of the Subject Property. R&L was responsible for overseeing and implementing the means and methods of construction of the paint and stucco for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

262. R&L owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry

standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

263. R&L breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

264. Due to R&L's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

265. As a direct and proximate result of R&L's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which R&L is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against R&L for damages in

excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXVII**  
**NEGLIGENCE**  
**(PARAGON)**

266. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

267. PARAGON was a subcontractor responsible for performing repairs to the exterior envelope for the construction of the Subject Property. PARAGON was responsible for overseeing and implementing the means and methods of construction of these exterior repairs of the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

268. PARAGON owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

269. PARAGON breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were

properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

270. Due to PARAGON's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

271. As a direct and proximate result of PARAGON's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which PARAGON is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against PARAGON for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXVIII**  
**NEGLIGENCE**  
**(PROIETTO)**

272. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

273. PROIETTO was a subcontractor related to paint and stucco for the construction of the Subject Property. PROIETTO was responsible for overseeing and implementing the means



and methods of construction of the paint and stucco for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

274. PROIETTO owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

275. PROIETTO breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

276. Due to PROIETTO's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue

to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

277. As a direct and proximate result of PROIETTO's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which PROIETTO is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against PROIETTO for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXIX**  
**NEGLIGENCE**  
**(FCU)**

278. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

279. FCU was a subcontractor responsible for the concrete shell work for the construction of the Subject Property. FCU was responsible for overseeing and implementing the means and methods of construction of the electrical system for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

280. FCU owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so

with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

281. FCU breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

282. Due to FCU's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

283. As a direct and proximate result of FCU's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which FCU is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against FCU for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.



**COUNT XXX**  
**NEGLIGENCE**  
**(DECKTIGHT)**

284. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

285. DECKTIGHT was the roofing subcontractor for the construction of the Subject Property. DECKTIGHT was responsible for overseeing and implementing the means and methods of construction of the roofing system for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

286. DECKTIGHT owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

287. DECKTIGHT breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

288. Due to DECKTIGHT's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

289. As a direct and proximate result of DECKTIGHT's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which DECKTIGHT is liable.

**WHEREFORE,** the ASSOCIATION demands judgment against DECKTIGHT for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXXI**  
**NEGLIGENCE**  
**(SPS)**

290. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

291. SPS was a subcontractor responsible for construction services related to the concrete shell of the Subject Property. SPS was responsible for overseeing and implementing the means and methods of construction of the concrete shell and its components for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by

its Subcontractors for the construction of the Subject Property.

292. SPS owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

293. SPS breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

294. Due to SPS's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

295. As a direct and proximate result of SPS's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which SPS is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against SPS for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXXII**  
**NEGLIGENCE**  
**(HIGH-RISE)**

296. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

297. HIGH-RISE was a subcontractor responsible for construction services related to Windows & SGD installation throughout the Subject Property. HIGH-RISE was responsible for overseeing and implementing the means and methods of construction of the installation of Windows & SGDs components for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

298. HIGH-RISE owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in



compliance with the approved plans and specifications.

299. HIGH-RISE breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

300. Due to HIGH-RISE's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

301. As a direct and proximate result of HIGH-RISE's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which HIGH-RISE is liable.

**WHEREFORE,** the ASSOCIATION demands judgment against HIGH-RISE for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXXIII**  
**NEGLIGENCE**  
**(SOUTHLAND)**

302. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

303. SOUTHLAND was a subcontractor responsible for performing and/or completing the concrete shell work for the construction of the Subject Property. SOUTHLAND was responsible for overseeing and implementing the means and methods of construction of the concrete shell and its components throughout the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

304. SOUTHLAND owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

305. SOUTHLAND breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in

compliance with the approved plans and specifications.

306. Due to SOUTHLAND's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

307. As a direct and proximate result of SOUTHLAND's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which SOUTHLAND is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against all Parties for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXXIV**  
**NEGLIGENCE**  
**(THYSSEN)**

308. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

309. THYSSEN was the elevator subcontractor for the construction of the Subject Property. THYSSEN was responsible for overseeing and implementing the means and methods of construction of the elevator system for the Subject Property and overseeing the work performed

by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

310. THYSSEN owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

311. THYSSEN breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

312. Due to THYSSEN's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies

described herein. *See* **Exhibit D**.

313. As a direct and proximate result of THYSSEN's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which THYSSEN is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against all Parties for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXXV**  
**NEGLIGENCE**  
**(KRAMA)**

314. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

315. KRAMA was the door and finish hardware installation subcontractor for the construction of the Subject Property. KRAMA was responsible for overseeing and implementing the means and methods of construction of the door and finish hardware for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

316. KRAMA owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed

without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

317. KRAMA breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

318. Due to KRAMA's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

319. As a direct and proximate result of KRAMA's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which KRAMA is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against all Parties for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXXVI**  
**NEGLIGENCE**  
**(ZARNAS)**

320. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

321. ZARNAS was a painting and stucco subcontractor for the construction of the Subject Property. ZARNAS was responsible for overseeing and implementing the means and methods of construction of the paint and stucco system for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

322. ZARNAS owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

323. ZARNAS breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

324. Due to ZARNAS' failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

325. As a direct and proximate result of ZARNAS' breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which ZARNAS is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against all Parties for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXXVII**  
**NEGLIGENCE**  
**(SOUTHERN)**

326. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

327. SOUTHERN was a painting and stucco subcontractor for the construction of the Subject Property. SOUTHERN was responsible for overseeing and implementing the means and methods of construction of the paint and stucco components for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its



Subcontractors for the construction of the Subject Property.

328. SOUTHERN owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

329. SOUTHERN breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

330. Due to SOUTHERN's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

331. As a direct and proximate result of SOUTHERN's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which SOUTHERN is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against all Parties for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXXVIII**  
**NEGLIGENCE**  
**(PRONTO)**

332. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

333. PRONTO was a painting and stucco subcontractor for the construction of the Subject Property. PRONTO was responsible for overseeing and implementing the means and methods of construction of the paint and stucco components for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

334. PRONTO owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in

compliance with the approved plans and specifications.

335. PRONTO breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

336. Due to PRONTO's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

337. As a direct and proximate result of PRONTO's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which PRONTO is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against all Parties for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XXXIX**  
**NEGLIGENCE**  
**(YB)**

338. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

339. YB was a subcontractor responsible for construction services related to the concrete shell during the construction of the Subject Property. YB was responsible for overseeing and implementing the means and methods of construction of the concrete for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

340. YB owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

341. YB breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

342. Due to YB's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

343. As a direct and proximate result of YB's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which YB is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against all Parties for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XL**  
**NEGLIGENCE**  
**(SEAMAN)**

344. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

345. SEAMAN was a subcontractor responsible for construction services related to the roof during the construction of the Subject Property. SEAMAN was responsible for overseeing and implementing the means and methods of construction of the roofing system and components for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

346. SEAMAN owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications. SEAMAN breached its duty to the ASSOCIATION in that it defectively oversaw, designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

347. Due to SEAMAN's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

348. As a direct and proximate result of SEAMAN's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue

to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which SEAMAN is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against all Parties for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XLI**  
**NEGLIGENCE**  
**(CLW)**

349. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

350. CLW was a subcontractor to GRYPHON responsible for concrete restoration during the construction of the Subject Property. CLW was responsible for overseeing and implementing the means and methods of construction of the concrete for the Subject Property and overseeing the work performed by its Subcontractors, and the materials supplied by its Subcontractors for the construction of the Subject Property.

351. CLW owed a duty to the ASSOCIATION to construct and provide materials free of defects for the construction of the Subject Property in conformance with applicable building codes and consistent with good practice and in accordance with applicable and accepted industry standards, and/or to perform their contractual duties, including but not limited to providing on-site technical service, to assure appropriate construction and installation of the materials and to do so with reasonable care and in a manner assuring that the construction and materials were installed without defects and deficiencies and in conformance with applicable building codes and in compliance with the approved plans and specifications.

352. CLW breached its duty to the ASSOCIATION in that it defectively oversaw,

designed, constructed, installed and/or provided defective materials in violation of applicable building codes and of good practice and industry standards, and/or failed to perform its contractual duties, including inspections and using reasonable care to assure construction and materials were properly installed in conformance with the applicable building codes and in compliance with the approved plans and specifications.

353. Due to CLW's failure to exercise a reasonable degree of skill and care in designing, constructing, administering, and/or approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in the Atkins NT Report, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein. *See Exhibit D.*

354. As a direct and proximate result of CLW's breaches of duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will continue to suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which CLW is liable.

**WHEREFORE**, the ASSOCIATION demands judgment against all Parties for damages in excess of \$15,000.00, the costs and expenses associated with attorney's fees and expert fees, and any other and further relief this Court deems just and proper.

**COUNT XLII**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(YATES)**

355. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.



356. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

357. YATES was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to Florida Statutes Chapter 553, Part VII (the “Florida Building Codes Act”), to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the Common Elements and Units of the Subject Property, as well as all property transferred with, or appurtenant to, each Unit, all improvements for the use of the Unit Owners, all structural components of the Buildings containing the Units, all other improvements, components, elements and systems for use of the Unit Owners, and all mechanical, structural, electrical and plumbing elements serving the building containing the Units or serving improvements, components, elements and systems for the use of the Unit Owners.

358. YATES, in constructing and delivering to the ASSOCIATION the Common Elements and the Subject Property, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

359. YATES knew or should have known that their construction was in violation of the Florida Building Codes Act.

360. Due to the YATES’ failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against YATES for damages in

excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT XLIII**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(FULLERTON)**

361. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

362. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

363. FULLERTON was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to Florida Building Codes Act, to properly design, construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the Common Elements and Units of the Subject Property, as well as all property transferred with, or appurtenant to, each Unit, all improvements for the use of the Unit Owners, all structural components of the Buildings containing the Units, all other improvements, components, elements and systems for use of the Unit Owners, and all mechanical, structural, electrical and plumbing elements serving the building containing the Units or serving improvements, components, elements and systems for the use of the Unit Owners.

364. FULLERTON, in designing, constructing and delivering to the ASSOCIATION the Common Elements and the Subject Property, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

365. FULLERTON knew or should have known that their construction was in violation

of the Florida Building Codes Act.

366. Due to the FULLERTON's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against FULLERTON for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT XLIV**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(CRESPO)**

367. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

368. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

369. CRESPO was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the Common Elements and Units of the Subject Property, as well as all property transferred with, or appurtenant to, each Unit, all improvements for the use of the Unit Owners, all roof and structural components of the Buildings containing the Units, all other improvements, components, elements and systems for use of the Unit Owners, and all mechanical, structural, electrical and plumbing elements serving the building containing the Units or serving improvements, components, elements and systems for the use of the Unit Owners.

370. CRESPO, in constructing and delivering to the ASSOCIATION the Common Elements and the Subject Property, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

371. CRESPO knew or should have known that their construction was in violation of the Florida Building Codes Act.

372. Due to the CRESPO's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against CRESPO for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT XLV**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(IBA)**

373. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

374. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

375. IBA was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the Common Elements and Units of the Subject Property, as well as all property transferred with, or

appurtenant to, each Unit, all improvements for the use of the Unit Owners, all roof and structural components of the Buildings containing the Units, all other improvements, components, elements and systems for use of the Unit Owners, and all mechanical, structural, electrical and plumbing elements serving the building containing the Units or serving improvements, components, elements and systems for the use of the Unit Owners.

376. IBA, in constructing and delivering to the ASSOCIATION the Common Elements and the Subject Property, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

377. IBA knew or should have known that their construction was in violation of the Florida Building Codes Act.

378. Due to the IBA's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against IBA for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT XLVI**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(PUIG)**

379. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

380. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the

violations.

381. PUIG was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the Common Elements and Units of the Subject Property, as well as all property transferred with, or appurtenant to, each Unit, all improvements for the use of the Unit Owners, all roof and structural components of the Buildings containing the Units, all other improvements, components, elements and systems for use of the Unit Owners, and all mechanical, structural, electrical and plumbing elements serving the building containing the Units or serving improvements, components, elements and systems for the use of the Unit Owners.

382. PUIG, in constructing and delivering to the ASSOCIATION the Common Elements and the Subject Property, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

383. PUIG knew or should have known that their construction was in violation of the Florida Building Codes Act.

384. Due to the PUIG's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against PUIG for damages in excess of \$15,000.00 and any other and further relief this Court deems just and proper.

**COUNT XLVII**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(GRYPHON)**

385. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

386. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

387. GRYPHON was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the Common Elements and Units of the Subject Property, as well as all property transferred with, or appurtenant to, each Unit, all improvements for the use of the Unit Owners, all structural components of the Buildings containing the Units, all other improvements, components, elements and systems for use of the Unit Owners, and all mechanical, structural, electrical and plumbing elements serving the building containing the Units or serving improvements, components, elements and systems for the use of the Unit Owners.

388. GRYPHON, in constructing and delivering to the ASSOCIATION the Common Elements and the Subject Property, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

389. GRYPHON knew or should have known that their construction was in violation of the Florida Building Codes Act.

390. Due to the GRYPHON's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against GRYPHON for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT XLVIII**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(ECKER)**

391. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

392. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

393. ECKER was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the Stucco and plaster systems for the Common Elements and Units of the Subject Property.

394. ECKER, in constructing and delivering to the ASSOCIATION the all of the stucco for the Common Elements of the Subject Property, and all other improvements, components, elements and systems comprising the stucco and plaster systems, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

395. ECKER knew or should have known that their construction was in violation of the



Florida Building Codes Act.

396. Due to the ECKER's failure to comply with the Florida Building Codes Act, the ASSOCIATION have proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property. *See Exhibit D.*

**WHEREFORE**, the ASSOCIATION demands judgment against ECKER for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT XLIX**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(NAGELBUSH MECHANICAL)**

397. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

398. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

399. NAGELBUSH MECHANICAL was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, installation and construction of the HVAC systems and components for the Common Elements and Units of the Subject Property.

400. NAGELBUSH MECHANICAL, in constructing and delivering to the ASSOCIATION the HVAC systems and components, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building

Codes Act, in contravention of same.

401. NAGELBUSH MECHANICAL knew or should have known that their construction was in violation of the Florida Building Codes Act.

402. Due to the NAGELBUSH MECHANICAL's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against NAGELBUSH MECHANICAL for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT L**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(NAGELBUSH PLUMBING)**

403. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

404. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

405. NAGELBUSH PLUMBING was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, install the showers and bathtubs and related plumbing components for the Common Elements and Units of the Subject Property.

406. NAGELBUSH PLUMBING, in constructing the showers and bathtubs and related plumbing components, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

407. NAGELBUSH PLUMBING knew or should have known that their construction was in violation of the Florida Building Codes Act.

408. Due to the NAGELBUSH PLUMBING's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against NAGELBUSH PLUMBING for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LI**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(RC ALUMINUM)**

409. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

410. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

411. RC ALUMINUM was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and

deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the Aluminum Windows, Sliding Glass Doors and Glass Balcony Railings for the Common Elements and Units of the Subject Property, and all other improvements, components, elements and systems comprising the window, sliding door, and glazing systems.

412. RC ALUMINIUM, in constructing and delivering to the ASSOCIATION the all of the Aluminum Windows, Sliding Glass Doors and Glass Balcony Railings for the Common Elements and Units of the Subject Property, and all other improvements, components, elements and systems comprising the window, sliding door, and glazing systems, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

413. RC ALUMINUM knew or should have known that their construction was in violation of the Florida Building Codes Act.

414. Due to the RC ALUMINUM's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property. *See Exhibit D.*

**WHEREFORE**, the ASSOCIATION demands judgment against RC ALUMINUM for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LII**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(PRO-TECH)**

415. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

416. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of

action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

417. PRO-TECH was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the waterproofing and caulking for the Common Elements and Units of the Subject Property.

418. PRO-TECH, in constructing and delivering to the ASSOCIATION the waterproofing and caulking, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

419. PRO-TECH knew or should have known that their construction was in violation of the Florida Building Codes Act.

420. Due to the PRO-TECH's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against PRO-TECH for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LIII**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(FORMRITE)**

421. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

422. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of

action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

423. FORMRITE was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the concrete formwork for the Common Elements and Units of the Subject Property.

424. FORMRITE, in constructing and delivering to the ASSOCIATION the concrete formwork, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

425. FORMRITE knew or should have known that their construction was in violation of the Florida Building Codes Act.

426. Due to the FORMRITE's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against FORMRITE for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LIV**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(EDD HELMS)**

427. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

428. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes

Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

429. EDD HELMS was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the HVAC components for the Common Elements and Units of the Subject Property.

430. EDD HELMS, in constructing and delivering to the ASSOCIATION the HVAC components for the Property, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

431. EDD HELMS knew or should have known that their construction was in violation of the Florida Building Codes Act.

432. Due to the EDD HELMS's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against EDD HELMS for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LV**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(R&L)**

433. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

434. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes

Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

435. R&L was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the construction related to painting and stucco for the Common Elements and Units of the Subject Property.

436. R&L, in constructing and delivering to the ASSOCIATION the painting and stucco components, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

437. R&L knew or should have known that their construction was in violation of the Florida Building Codes Act.

438. Due to the R&L's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against R&L for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LVI**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(PARAGON)**

439. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

440. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes



Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

441. PARAGON was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of construction related to painting and stucco for the Common Elements and Units of the Subject Property.

442. PARAGON, in constructing and delivering to the ASSOCIATION the painting and waterproofing components, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

443. PARAGON knew or should have known that their construction was in violation of the Florida Building Codes Act.

444. Due to the PARAGON's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against PARAGON for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LVII**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(PROIETTO)**

445. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

446. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of

action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

447. PROIETTO was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the construction related to painting and stucco for the Common Elements and Units of the Subject Property.

448. PROIETTO, in constructing and delivering to the ASSOCIATION the construction of the painting and stucco components, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

449. PROIETTO knew or should have known that their construction was in violation of the Florida Building Codes Act.

450. Due to the PROIETTO's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against PROIETTO for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LVIII**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(FCU)**

451. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

452. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

453. FCU was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the construction related to the concrete shell work for the Common Elements and Units of the Subject Property.

454. FCU, in constructing and delivering to the ASSOCIATION the construction of the concrete shell work, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

455. FCU knew or should have known that their construction was in violation of the Florida Building Codes Act.

456. Due to the FCU's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against FCU for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LIX**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(DECKTIGHT)**

457. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six

(76) above as though fully set forth herein.

458. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

459. DECKTIGHT was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the roofing system and structural components for the Common Elements and Units of the Subject Property.

460. DECKTIGHT, in constructing and delivering to the ASSOCIATION the roofing system and structural components, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

461. DECKTIGHT knew or should have known that their construction was in violation of the Florida Building Codes Act.

462. Due to the DECKTIGHT's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against DECKTIGHT for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LX**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(SPS)**

463. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

464. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

465. SPS was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the construction related to concrete components for the Common Elements and Units of the Subject Property.

466. SPS, in constructing and delivering to the ASSOCIATION the construction related to the concrete components, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

467. SPS knew or should have known that their construction was in violation of the Florida Building Codes Act.

468. Due to the SPS's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against SPS for damages in

excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LXI**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(HIGH-RISE)**

469. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

470. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

471. HIGH-RISE was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the construction services related to installation of Windows & SGDs for the Common Elements and Units of the Subject Property.

472. HIGH-RISE, in constructing and delivering to the ASSOCIATION the installation of the Windows and SGDs, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

473. HIGH-RISE knew or should have known that their construction was in violation of the Florida Building Codes Act.

474. Due to the HIGH-RISE's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against HIGH-RISE for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LXII**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(SOUTHLAND)**

475. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

476. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

477. SOUTHLAND was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the formwork construction for the Common Elements and Units of the Subject Property.

478. SOUTHLAND, in constructing and delivering to the ASSOCIATION the formwork construction, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

479. SOUTHLAND knew or should have known that their construction was in violation of the Florida Building Codes Act.

480. Due to the SOUTHLAND's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against SOUTHLAND for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LXIII**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(THYSSEN)**

481. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

482. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

483. THYSSEN was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the elevator systems and components for the Common Elements and Units of the Subject Property.

484. THYSSEN, in constructing and delivering to the ASSOCIATION the elevator system and components failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

485. THYSSEN knew or should have known that their construction was in violation of the Florida Building Codes Act.

486. Due to the THYSSEN's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.



**WHEREFORE**, the ASSOCIATION demands judgment against THYSSEN for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LXIV**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(KRAMA)**

487. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

488. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

489. KRAMA was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the door and finish hardware installation for the Common Elements and Units of the Subject Property.

490. KRAMA, in constructing and delivering to the ASSOCIATION the door and finish hardware, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

491. KRAMA knew or should have known that their construction was in violation of the Florida Building Codes Act.

492. Due to the KRAMA's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against KRAMA for damages in

excess of \$15,000.00 and any other and further relief this Court deems just and proper.

**COUNT LXV**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(ZARNAS)**

493. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

494. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

495. ZARNAS was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the stucco components for the Common Elements and Units of the Subject Property.

496. ZARNAS, in constructing and delivering to the ASSOCIATION the stucco components, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

497. ZARNAS knew or should have known that their construction was in violation of the Florida Building Codes Act.

498. Due to the ZARNAS's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against ZARNAS for damages in excess of \$15,000.00 and any other and further relief this Court deems just and proper.

**COUNT LXVI**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(SOUTHERN)**

499. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

500. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

501. SOUTHERN was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the painting and stucco components for the Common Elements and Units of the Subject Property.

502. SOUTHERN, in constructing and delivering to the ASSOCIATION the painting and stucco components, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

503. SOUTHERN knew or should have known that their construction was in violation of the Florida Building Codes Act.

504. Due to the SOUTHERN's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against SOUTHERN for damages in excess of \$15,000.00 and any other and further relief this Court deems just and proper.

**COUNT LXVII**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(PRONTO)**

505. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

506. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

507. PRONTO was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the painting and stucco components for the Common Elements and Units of the Subject Property.

508. PRONTO, in constructing and delivering to the ASSOCIATION the painting and stucco components failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

509. PRONTO knew or should have known that their construction was in violation of the Florida Building Codes Act.

510. Due to the PRONTO's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against PRONTO for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LXVIII**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(YB)**

511. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

512. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

513. YB was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the concrete components for the Common Elements and Units of the Subject Property.

514. YB, in constructing and delivering to the ASSOCIATION the concrete components, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

515. YB knew or should have known that their construction was in violation of the Florida Building Codes Act.

516. Due to the YB's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against YB for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LXIX**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(SEAMAN)**

517. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

518. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

519. SEAMAN was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the roofing system and components for the Common Elements and Units of the Subject Property.

520. SEAMAN, in constructing and delivering to the ASSOCIATION the roofing system and components, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

521. SEAMAN knew or should have known that their construction was in violation of the Florida Building Codes Act.

522. Due to the SEAMAN's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against SEAMAN for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LXX**  
**VIOLATION OF SECTION 553.84 FLORIDA STATUTES**  
**(CLW)**

523. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

524. Section 553.84, Florida Statutes (2001), expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (Sections 553.70, *et seq.*, Florida Statutes) against the party or parties committing the violations.

525. CLW was under a statutory duty to the ASSOCIATION and the individual Unit Owners, pursuant to the Florida Building Codes Act, to properly construct and deliver, in compliance with all applicable local, state, and national building codes and regulations, all of the concrete components for the Common Elements and Units of the Subject Property.

526. CLW, in constructing and delivering to the ASSOCIATION the concrete components, failed to comply with all applicable local, state and national building codes and regulations, including, but not limited to, the Florida Building Codes Act, in contravention of same.

527. CLW knew or should have known that their construction was in violation of the Florida Building Codes Act.

528. Due to the CLW's failure to comply with the Florida Building Codes Act, the ASSOCIATION has proximately suffered damages and will continue to suffer damages, including but not limited to the cost to correct the code violations and damage to Other Property.

**WHEREFORE**, the ASSOCIATION demands judgment against CLW for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LXXI**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(YATES)**

529. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

530. YATES was a contractor and/or supplier within the purview of Section 718.203(2) of the Florida Statutes, in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the Subject Property pursuant to its contract with the DEVELOPER and/or RW.

531. Pursuant to Florida Statutes §§ 718.203(2), YATES granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

532. YATES breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

533. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its



Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

534. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

535. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against YATES for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT LXXII**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(GRYPHON)**

536. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

537. GRYPHON was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES.

538. Pursuant to Florida Statutes §§ 718.203(2), GRYPHON granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

539. GRYPHON breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

540. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

541. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

542. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against GRYPHON for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXIII**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(ECKER)**

543. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

544. ECKER was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES.

545. Pursuant to Florida Statutes §§ 718.203(2), ECKER granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

546. ECKER breached these warranties by, among other things, failing to properly construct the stucco and plaster system at the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

547. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its

Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

548. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

549. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against ECKER for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXIV**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(NAGELBUSH MECHANICAL)**

550. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

551. NAGELBUSH MECHANICAL was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES.

552. Pursuant to Florida Statutes §§ 718.203(2), NAGELBUSH MECHANICAL granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the

work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

553. NAGELBUSH MECHANICAL breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

554. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

555. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

556. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against NAGELBUSH MECHANICAL for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their

respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXV**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(NAGELBUSH PLUMBING)**

557. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

558. NAGELBUSH PLUMBING was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES and/or its subcontractors.

559. Pursuant to Florida Statutes §§ 718.203(2), NAGELBUSH PLUMBING granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

560. NAGELBUSH PLUMBING breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

561. As a direct and proximate result of the aforesaid breaches of warranty, Other

Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

562. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

563. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against NAGELBUSH PLUMBING for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXVI**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(RC ALUMINUM)**

564. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

565. RC ALUMINUM was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES.

566. Pursuant to Florida Statutes §§ 718.203(2), RC ALUMINUM granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

567. RC ALUMINUM breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

568. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

569. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

570. The ASSOCIATION has been damaged in excess of \$15,000.00.



**WHEREFORE**, the ASSOCIATION demands judgment against RC ALUMINUM for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXVII**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(PRO-TECH)**

571. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

572. PRO-TECH was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES.

573. Pursuant to Florida Statutes §§ 718.203(2), PRO-TECH granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

574. PRO-TECH breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT

Report. *See Exhibit D.*

575. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

576. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

577. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against PRO-TECH for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXVIII**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(FORMRITE)**

578. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

579. FORMRITE was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant

to their respective contracts with YATES and/or its subcontractors.

580. Pursuant to Florida Statutes §§ 718.203(2), FORMRITE granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

581. FORMRITE breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

582. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

583. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

584. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against FORMRITE for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXIX**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(EDD HELMS)**

585. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

586. EDD HELMS was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES and/or its subcontractors.

587. Pursuant to Florida Statutes §§ 718.203(2), EDD HELMS granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the CABI/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

588. EDD HELMS breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and

deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

589. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

590. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

591. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against EDD HELMS for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXX**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(R&L)**

592. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

593. R&L was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns

physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES and/or its subcontractors.

594. Pursuant to Florida Statutes §§ 718.203(2), R&L granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

595. R&L breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

596. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

597. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION

at all times material hereto.

598. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against R&L for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXXI**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(PARAGON)**

599. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

600. PARAGON was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES and/or its subcontractors.

601. Pursuant to Florida Statutes §§ 718.203(2), PARAGON granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

602. PARAGON breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and

specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

603. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

604. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

605. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against PARAGON for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXXII**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(PROIETTO)**

606. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

607. PROIETTO was a subcontractor and/or supplier within the purview of Florida



Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES and/or its subcontractors.

608. Pursuant to Florida Statutes §§ 718.203(2), PROIETTO granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

609. PROIETTO breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

610. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

611. Routine maintenance of the areas, structural components, improvements and/or

Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

612. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against PROIETTO for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXXIII**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(FCU)**

613. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

614. FCU was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES and/or its subcontractors.

615. Pursuant to Florida Statutes §§ 718.203(2), FCU granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

616. FCU breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes;

by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

617. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

618. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

619. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against FCU for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXXIV**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(DECKTIGHT)**

620. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

621. DECKTIGHT was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES.

622. Pursuant to Florida Statutes §§ 718.203(2), DECKTIGHT granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

623. DECKTIGHT breached these warranties by, among other things, failing to properly construct the roofing system and components at the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

624. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

625. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

626. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against DECKTIGHT for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXXV**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(SPS)**

627. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

628. SPS was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES and/or its subcontractors.

629. Pursuant to Florida Statutes §§ 718.203(2), SPS granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

630. SPS breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements

and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

631. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

632. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

633. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against SPS for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXXVI**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(HIGH-RISE)**

634. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six

(76) above as though fully set forth herein.

635. HIGH-RISE was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES and/or its subcontractors.

636. Pursuant to Florida Statutes §§ 718.203(2), HIGH-RISE granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

637. HIGH-RISE breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

638. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy

the damage to Other Property.

639. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

640. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against HIGH-RISE for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXXVII**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(SOUTHLAND)**

641. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

642. SOUTHLAND was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES and/or its subcontractors.

643. Pursuant to Florida Statutes §§ 718.203(2), SOUTHLAND granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

644. SOUTHLAND breached these warranties by, among other things, failing to



properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

645. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

646. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

647. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against SOUTHLAND for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXXVIII**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(THYSSEN)**

648. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

649. THYSSEN was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES.

650. Pursuant to Florida Statutes §§ 718.203(2), THYSSEN granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

651. THYSSEN breached these warranties by, among other things, failing to properly construct the elevator system and components at the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

652. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its

Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

653. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

654. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against THYSSEN for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT LXXXIX**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(KRAMA)**

655. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

656. KRAMA was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES.

657. Pursuant to Florida Statutes §§ 718.203(2), KRAMA granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials

supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

658. KRAMA breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

659. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

660. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

661. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against KRAMA for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they

were responsible, and any other and further relief this Court deems just and proper.

**COUNT XC**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(ZARNAS)**

662. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

663. ZARNAS was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES and/or its subcontractors.

664. Pursuant to Florida Statutes §§ 718.203(2), ZARNAS granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

665. ZARNAS breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

666. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with

the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

667. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

668. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against ZARNAS for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT XCI**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(SOUTHERN)**

669. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

670. SOUTHERN was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES.

671. Pursuant to Florida Statutes §§ 718.203(2), SOUTHERN granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well

as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

672. SOUTHERN breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

673. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

674. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

675. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against SOUTHERN for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES

based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT XCII**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(PRONTO)**

676. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

677. PRONTO was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES and/or its subcontractors.

678. Pursuant to Florida Statutes §§ 718.203(2), PRONTO granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

679. PRONTO breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

680. As a direct and proximate result of the aforesaid breaches of warranty, Other



Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

681. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

682. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against PRONTO for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT XCIII**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(YB)**

683. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

684. YB was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES and/or its subcontractors.

685. Pursuant to Florida Statutes §§ 718.203(2), YB granted to the original Unit Owners

(i.e., those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

686. YB breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

687. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

688. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

689. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against YB for damages in

excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT XCIV**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(SEAMAN)**

690. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

691. SEAMAN was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES and/or its subcontractors.

692. Pursuant to Florida Statutes §§ 718.203(2), SEAMAN granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

693. SEAMAN breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

694. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

695. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

696. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against SEAMAN for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT XCV**  
**BREACH OF STATUTORY IMPLIED WARRANTIES**  
**(CLW)**

697. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

698. CLW was a subcontractor and/or supplier within the purview of Florida Statutes §§ 718.203(2), in that it or its subcontractors, sub-subcontractors, employees, agents and/or assigns physically constructed the components and systems at the Subject Property pursuant to their respective contracts with YATES and/or its subcontractors.

699. Pursuant to Florida Statutes §§ 718.203(2), CLW granted to the original Unit Owners (*i.e.*, those who purchased their units directly from the DEVELOPER/RW) as well as all successor Unit Owners, implied warranties of fitness as to the work performed or materials supplied by it with regard to the ASSOCIATION's Buildings, Units, components, elements, systems and/or improvements.

700. CLW breached these warranties by, among other things, failing to properly construct the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements); by failing to comply with the requirements of applicable building codes; by failing to construct same in accordance with the filed and approved plans and specifications and by engineering and/or constructing the Subject Property with defects and deficiencies including, but not limited to, those defects and deficiencies identified in the Atkins NT Report. *See Exhibit D.*

701. As a direct and proximate result of the aforesaid breaches of warranty, Other Property at the ASSOCIATION has been damaged and the Subject Property was constructed with the aforementioned defects and deficiencies. The ASSOCIATION, through the assessment of its Unit Owners, has been and/or will be required to expend large sums of money for the repair, maintenance and replacement of the Property, including both the remediation, repair and /or replacement of the defective systems, components, and/or improvements, and the costs to remedy the damage to Other Property.

702. Routine maintenance of the areas, structural components, improvements and/or Common Elements set forth in the Atkins NT Report has been performed by the ASSOCIATION at all times material hereto.

703. The ASSOCIATION has been damaged in excess of \$15,000.00.

**WHEREFORE**, the ASSOCIATION demands judgment against CLW for damages in excess of \$15,000.00, apportioned among the various CONSTRUCTION PARTIES based upon the damages caused by defects in the work within their respective disciplines and for which they were responsible, and any other and further relief this Court deems just and proper.

**COUNT XCVI**  
**PROFESSIONAL NEGLIGENCE**  
**(FULLERTON)**

704. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

705. FULLERTON was retained as the architect of record for the design and construction of the Subject Property.

706. FULLERTON knew and intended that the ASSOCIATION would rely upon the design, approval of work performed and/or the plans supplied in the construction of the Subject Property.

707. FULLERTON, as the architect of record, owed a duty to the ASSOCIATION to undertake the design of the Subject Property (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements), to properly design the approved plans and specifications in accordance with the standards and practices of its industry and to exercise a reasonable degree of skill and care to ensure that the design and construction of the Subject Property complied with FULLERTON's approved plans and specifications, designs, the Florida Building Code and in accordance with the Professional standards of care used by similar professionals in the community under similar circumstances. *See Exhibit D.*

708. FULLERTON knew or should have known that they were performing work in furtherance of the construction of a high-rise luxury condominium project in Downtown Miami,

Florida, that would benefit and be used by the ASSOCIATION and the Unit Owners, and owed the duty of care of a reasonable and prudent professional architect preparing designs, plans and specifications for a luxury high-rise condominium tower in downtown Miami, Florida.

709. FULLERTON failed to exercise a reasonable degree of skill and care in providing architectural services and/or design services and failed to perform its services in accordance with the standard of care used by similar professionals in the community under similar circumstances, including but not limited to the following:

- a. Failing to exercise a reasonable degree of skill and care in designing, administering, and/or approving the work performed and the materials supplied in construction of the Subject Property as demonstrated by the deficiencies identified in Exhibit D; and/or
- b. Failing to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts and the Florida Building Code as demonstrated by the deficiencies identified in **Exhibit D**.

710. Due to FULLERTON's failure to exercise a reasonable degree of skill and care in designing, preparing plans and specifications for, administering, and approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in Exhibit D, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein and damages to Other Property. *Id.*

711. As a direct and proximate result of the FULLERTON's breaches of their duty as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which the Defendant is liable.

712. As a direct and proximate result of the FULLERTON's breaches of duties as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will suffer incidental, consequential and special damages such as remediation of damage to Other Property, permitting, engineering drawings/specifications and engineering inspection costs incurred in remediation of the same, installation of protective measures for the maintenance of the Subject Property necessitated by the defective systems and components, interim remediation to mitigate the damage caused by the defective systems and components, and indemnification for any and all claims arising against the ASSOCIATION based upon the defective systems and components, all of which have been created by virtue of the violations by FULLERTON of their professional duty of care.

**WHEREFORE**, the ASSOCIATION demands judgment against FULLERTON for damages in excess of \$15,000.00, and any other and further relief this Court deems just and proper.

**COUNT XCVII**  
**PROFESSIONAL NEGLIGENCE**  
**(CRESPO)**

713. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

714. CRESPO was retained as the civil engineer of record for the design and construction of the Subject Property.

715. CRESPO knew and intended that the ASSOCIATION would rely upon the designs,



approvals of work performed and/or the plans supplied by it in the construction of the Subject Property.

716. CRESPO, as the civil engineer of record, owed a duty to the ASSOCIATION to undertake the design of the systems for the Subject Property they were responsible for (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements), to properly design the approved plans and specifications in accordance with the standards and practices of its industry and to exercise a reasonable degree of skill and care to ensure that the design and construction of the Subject Property complied with their approved plans and specifications, their designs, the Florida Building Code and in accordance with the Professional standards of care used by similar professionals in the community under similar circumstances.

717. CRESPO knew or should have known that it was performing work in furtherance of the construction of a high-rise luxury condominium project in Downtown Miami, Florida that would benefit and be utilized by the ASSOCIATION and the Unit Owners, and owed the duty of care of a reasonable and prudent professional engineer preparing designs, plans and specifications for systems and components in a luxury high-rise condominium tower in downtown Miami, Florida.

718. CRESPO failed to exercise a reasonable degree of skill and care in providing professional engineering services and/or design services and failed to perform their services in accordance with the standard of care used by similar professionals in the community under similar circumstances, including but not limited to the following:

- a. Failing to exercise a reasonable degree of skill and care in designing, preparing plans and specifications for, administering, and/or approving the work performed and the materials supplied in construction of the respective systems

for which each was responsible at the Subject Property, as demonstrated by the deficiencies identified in Exhibit D; and/or

- b. Failing to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts and the Florida Building Code as demonstrated by the deficiencies identified in **Exhibit D**.

719. Due to CRESPO's failure to exercise a reasonable degree of skill and care in designing, preparing plans and specifications for, administering, and approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in Exhibit D, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein and damages to Other Property.

720. As a direct and proximate result of CRESPO's breaches of its duties as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which the Defendant is liable.

721. As a direct and proximate result of the CRESPO's breaches of its duties as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will suffer incidental, consequential and special damages such as remediation of damage to Other Property, permitting, engineering drawings/specifications and engineering inspection costs incurred in remediation of the same, installation of protective measures for the maintenance of the Subject Property necessitated by the defective systems and components, interim remediation to

mitigate the damage caused by the defective systems and components, and indemnification for any and all claims arising against the ASSOCIATION based upon the defective systems and components, all of which have been created by virtue of the violations by CRESPO of its professional duty of care.

**WHEREFORE**, the ASSOCIATION demands judgment against CRESPO for damages in excess of \$15,000.00 and any other and further relief this Court deems just and proper.

**COUNT XCVIII**  
**PROFESSIONAL NEGLIGENCE**  
**(IBA)**

722. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

723. IBA was retained as the threshold consultant for the design and construction of the Subject Property.

724. IBA knew and intended that the ASSOCIATION would rely upon the designs, approvals of work performed and/or the plans supplied by it in the construction of the Subject Property.

725. IBA, as the threshold inspection consultant of record, owed a duty to the ASSOCIATION to undertake the design of the threshold components for the Subject Property they were responsible for (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements), to properly design the approved plans and specifications in accordance with the standards and practices of its industry and to exercise a reasonable degree of skill and care to ensure that the design and construction of the Subject Property complied with their approved plans and specifications, their designs, the Florida Building Code and in accordance with the Professional standards of care used by similar professionals in the community under similar

circumstances.

726. IBA knew or should have known that it was performing work in furtherance of the construction of a high-rise luxury condominium project in Downtown Miami, Florida that would benefit and be utilized by the ASSOCIATION and the Unit Owners, and owed the duty of care of a reasonable and prudent professional engineer preparing designs, plans and specifications for systems and components in a luxury high-rise condominium tower in downtown Miami, Florida.

727. IBA failed to exercise a reasonable degree of skill and care in providing professional engineering services and/or design services and failed to perform their services in accordance with the standard of care used by similar professionals in the community under similar circumstances, including but not limited to the following:

- a. Failing to exercise a reasonable degree of skill and care in designing, preparing plans and specifications for, administering, and/or approving the work performed and the materials supplied in construction of the respective systems for which each was responsible at the Subject Property, as demonstrated by the deficiencies identified in **Exhibit D**; and/or
- b. Failing to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts and the Florida Building Code as demonstrated by the deficiencies identified in **Exhibit D**.

728. Due to IBA's failure to exercise a reasonable degree of skill and care in designing, preparing plans and specifications for, administering, and approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied

were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in **Exhibit D**, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein and damages to Other Property.

729. As a direct and proximate result of IBA's breaches of its duties as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which the Defendant is liable.

730. As a direct and proximate result of the IBA's breaches of its duties as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will suffer incidental, consequential and special damages such as remediation of damage to Other Property, permitting, engineering drawings/specifications and engineering inspection costs incurred in remediation of the same, installation of protective measures for the maintenance of the Subject Property necessitated by the defective systems and components, interim remediation to mitigate the damage caused by the defective systems and components, and indemnification for any and all claims arising against the ASSOCIATION based upon the defective systems and components, all of which have been created by virtue of the violations by IBA of its professional duty of care.

**WHEREFORE**, the ASSOCIATION demands judgment against IBA for damages in excess of \$15,000.00 and any other and further relief this Court deems just and proper.

**COUNT XCIX**  
**PROFESSIONAL NEGLIGENCE**  
**(PUIG)**

731. The ASSOCIATION repeats and re-alleges paragraphs one (1) through seventy-six (76) above as though fully set forth herein.

732. PUIG was retained as the threshold inspector of record for the design and

construction of the Subject Property.

733. PUIG knew and intended that the ASSOCIATION would rely upon the designs, approvals of work performed and/or the plans supplied by it in the construction of the Subject Property.

734. PUIG, as the threshold inspector of record, owed a duty to the ASSOCIATION to undertake the design of the systems for the Subject Property they were responsible for (inclusive of Buildings, Units, components, elements, systems improvements and Common Elements), to properly design the approved plans and specifications in accordance with the standards and practices of its industry and to exercise a reasonable degree of skill and care to ensure that the design and construction of the Subject Property complied with their approved plans and specifications, their designs, the Florida Building Code and in accordance with the Professional standards of care used by similar professionals in the community under similar circumstances.

735. PUIG knew or should have known that it was performing work in furtherance of the construction of a high-rise luxury condominium project in Downtown Miami, Florida that would benefit and be utilized by the ASSOCIATION and the Unit Owners, and owed the duty of care of a reasonable and prudent professional engineer preparing designs, plans and specifications for systems and components in a luxury high-rise condominium tower in downtown Miami, Florida.

736. PUIG failed to exercise a reasonable degree of skill and care in providing professional engineering services and/or design services and failed to perform their services in accordance with the standard of care used by similar professionals in the community under similar circumstances, including but not limited to the following:

- a. Failing to exercise a reasonable degree of skill and care in designing, preparing

plans and specifications for, administering, and/or approving the work performed and the materials supplied in construction of the respective systems for which each was responsible at the Subject Property, as demonstrated by the deficiencies identified in **Exhibit D**; and/or

- b. Failing to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts and the Florida Building Code as demonstrated by the deficiencies identified in **Exhibit D**.

737. Due to PUIG's failure to exercise a reasonable degree of skill and care in designing, preparing plans and specifications for, administering, and approving the work performed and the materials supplied in the construction of the Subject Property, as well as its failure to exercise a reasonable degree of skill and care in assuring that the work performed and the materials supplied were in accordance with the plans, specifications, the contracts, and the applicable Florida Building Code, as outlined in Exhibit D, the ASSOCIATION has suffered damages and will continue to suffer damages, including but not limited to the costs to repair and replace the deficiencies described herein and damages to Other Property.

738. As a direct and proximate result of PUIG's breaches of its duties as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will suffer damages in excess of \$15,000.00, exclusive of interest and costs, for which the Defendant is liable.

739. As a direct and proximate result of the PUIG's breaches of its duties as described in the Atkins NT Report and herein, the ASSOCIATION has proximately suffered and will suffer incidental, consequential and special damages such as remediation of damage to Other Property, permitting, engineering drawings/specifications and engineering inspection costs incurred in

remediation of the same, installation of protective measures for the maintenance of the Subject Property necessitated by the defective systems and components, interim remediation to mitigate the damage caused by the defective systems and components, and indemnification for any and all claims arising against the ASSOCIATION based upon the defective systems and components, all of which have been created by virtue of the violations by PUIG of its professional duty of care.

**WHEREFORE**, the ASSOCIATION demands judgment against PUIG for damages in excess of \$15,000.00 and any other and further relief this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury on all issues so triable.

Respectfully submitted,

**HABER SLADE, P.A.**  
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