

Instrument prepared by and after recording return to:  
Steven M. Falk, Esq.  
Falk Law Firm, P.A.  
7400 Tamiami Trail North, Suite 103  
Naples, FL 34108  
(239) 596-8400

(Space above line for recording information)

**CERTIFICATE OF AMENDMENT**

THE UNDERSIGNED, being the President of Ardissonne Condominium Association, Inc., a Florida corporation not for profit, does hereby certify that at the Special Members' Meeting held on March 24, 2020, at which a quorum was present, after due notice, the amendments to the governing documents attached hereto as Exhibit "A" were approved and adopted by the required vote of the membership. The Declaration of Condominium for Ardissonne, a Condominium was recorded in O.R. Book 1142, Page 2291, Public Records of Collier County, Florida and the existing Amended and Restated Declaration of Condominium was recorded in O.R. Book 1991, Page 617, Public Records of Collier County, Florida. IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand and the seal of the corporation.

ARDISSONE CONDOMINIUM  
ASSOCIATION, INC. (SEAL)

Stacey Raskin  
Witness  
Print Name: Stacey Raskin

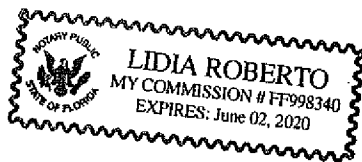
By: Robert McDorman  
Robert McDorman  
Its: President

Steven Falk  
Witness  
Print Name: Steven Falk

STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of April, 2020, by () physical presence or ( ) online notarization, by Robert McDorman, as President of Ardissonne Condominium Association, Inc., the corporation described in the foregoing instrument, who is () personally known to me or who has produced \_\_\_\_\_ as identification.

(SEAL)

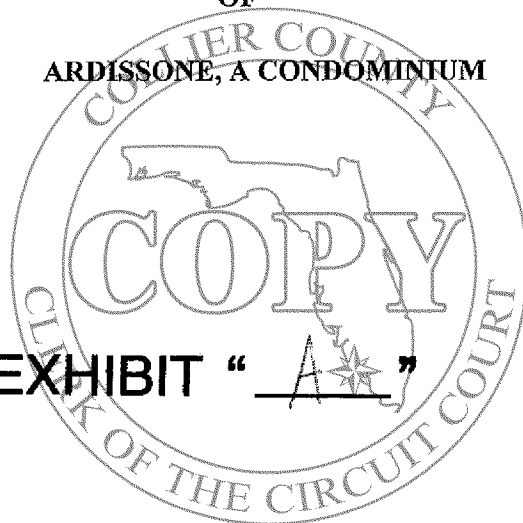


Lidia Roberto  
Notary Public  
Printed Name of Notary Public  
Serial Number: FF998340  
My Commission Expires: 6/2/20

**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM**

**OF**

**ARDISSONE, A CONDOMINIUM**



**NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE DECLARATION OF CONDOMINIUM FOR PRESENT TEXT SEE EXISTING DECLARATION OF CONDOMINIUM**

**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR**  
**ARDISSONE, A CONDOMINIUM**

**KNOW ALL MEN BY THESE PRESENTS:**

That heretofore, the original Declaration of Condominium for Ardissonne, a Condominium, (hereinafter the "Condominium") was recorded in Official Records Book 1142, at Page 2291, et. seq., of the Public Records of Collier County, Florida. That Declaration of Condominium, as it has previously been amended, is hereby further amended in part and restated in its entirety.

1. SUBMISSION TO CONDOMINIUM OWNERSHIP: This Amended and Restated Declaration of Condominium is made by Ardissonne Condominium Association, Inc., a Florida corporation not for profit. The land subject to this Declaration and the improvements located thereon have already been submitted to condominium ownership and use pursuant to the Condominium Act (as defined below). No additional property is being submitted to condominium ownership by this Declaration. The covenants and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future Owners of Condominium Parcels. The acquisition of title to a Unit or any other interest in the Condominium Property, or the lease, occupancy, or use of any portion of a Unit or the Condominium Property, constitutes an acceptance and ratification of all provisions of this Declaration as amended from time to time, and an agreement to be bound by its terms.

2. NAME AND ADDRESS: The name of the Condominium is Ardissonne, a Condominium, and its street address is 4400 Gulf Shore Boulevard North, Naples, FL 34103.

3. DESCRIPTION OF CONDOMINIUM PROPERTY: The land submitted to the condominium form of ownership by the original Declaration as amended (hereinafter the "Land") is legally described in the survey and plot plan, which was attached to the original Declaration of Condominium as Exhibit "3" and is hereby incorporated by reference.

4. DEFINITIONS: The terms used in this Declaration and its exhibits shall have the meanings stated below and in Chapter 718, Florida Statutes, (the "Condominium Act"), unless the context otherwise requires.

4.1 "Assessment" means a share of the funds required for the payment of Common Expenses which from time to time is assessed against the Units.

4.2 "Association" means Ardissonne Condominium Association, Inc., a Florida corporation not for profit, the legal entity responsible for the operation of the Condominium

4.3 “Association Property” means all property, real or personal, which is owned or leased by or is dedicated by a recorded plat to, the Association for the use and benefit of the Unit Owners.

4.4 “Board of Directors” or “Board” means the representative body which is responsible for the administration of the Association’s affairs, and is the same body that is sometimes referred to in the Condominium Act as the “Board of Administration”.

4.5 “Common Surplus” means the amount of all receipts or revenues, including Assessments, rents, or profits, collected by the Association which exceeds Common Expenses.

4.5.1 “Common Expenses” means all expenses properly incurred by the Association in the performance of its duties, including expenses specified in Section 718.115 of the Condominium Act.

4.5.2 “Condominium Documents” means and includes this Declaration and all recorded exhibits hereto, including, without limitation, the Articles of Incorporation, Bylaws and the Rules and Regulations, all as amended from time to time.

4.5.3 “Condominium Property” means the Land and personal property that were subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the Condominium.

4.6 “Family” or “Single Family” shall refer to any one of the following:

(A) One person (as used in this Declaration, the term “person” or “natural person” shall mean a real person as opposed to an artificial entity such as a corporation, partnership or trust).

(B) Two or more persons who commonly reside together as a single housekeeping unit, each of whom is related by blood, marriage, adoption or legal custody to each of the others.

(C) Not more than two natural persons not related by blood, marriage, legal custody or adoption, who reside together as a single housekeeping unit, along with their children, if any.

4.7 “Fixtures” means those items of tangible personal property which by being physically annexed or constructively affixed to the Unit have become accessory to it and part and parcel of it, including but not limited to, interior partitions, walls, appliances which have been built in or permanently affixed, and plumbing fixtures in kitchens and bathrooms. Fixtures do not include floor, wall or ceiling coverings.

4.8 “Guest” means any person who is not the Unit Owner or a lessee or member of the Unit Owner’s or lessee’s Family who permanently resides with the Unit Owner or the lessee, as applicable, who is physically present in, or occupies the Unit on a temporary basis at the invitation of the Unit Owner

or other legally permitted occupant, without the payment of consideration.

4.9 "Institutional Mortgagee" means the mortgagee (or its assignee) of a mortgage against a Condominium Parcel, which mortgagee is a bank, savings and loan association, mortgage company, insurance company, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any agency of the United States of America. The term also refers to any holder of a mortgage against a Condominium Parcel which mortgage is guaranteed or insured by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America, or by any other public or private corporation engaged in the business of guaranteeing or insuring residential mortgage loans, and their successors and assigns.

4.10 "Lease" means the grant by a Unit Owner of a temporary right of use of the Unit Owner's Unit for valuable consideration. "Lessee" means the person(s) whom the Unit Owner has granted a temporary right of use of the Owner's Unit for valuable consideration. The term "Tenant" is substituted for "Lessee" in certain instances in the Condominium Documents for the purpose of consistency with the Condominium Act.

4.11 "Limited Common Elements" means and includes those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of other Units. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit it or it is otherwise expressly provided.

4.12 "Occupy" when used in connection with a Unit, means the act of staying overnight in a Unit. "Occupant" is a person who occupies a Unit.

4.13 "Primary Institutional Mortgagee" means that Institutional Mortgagee which, at the time a determination is made, holds first mortgages on more Units in the Condominium than any other institutional mortgagee, such determination to be made by reference to the number of Units encumbered, and not by the dollar amount of such mortgages.

4.14 "Primary Occupant" means a person approved by the Board for occupancy of a Unit when title to the Unit is held in the name of two (2) or more persons who are not husband and wife, or by a trustee or a corporation, partnership, limited liability company or other entity that is not a person.

4.15 "Rules and Regulations" means those rules and regulations promulgated by the Board, governing the use, occupancy, alteration, maintenance, transfer and appearance of Units, Common Elements and Limited Common Elements, and the operation of the Association, subject to any limits set forth in this Declaration.

4.16 "Unit" means and refers to that portion of the Condominium Property which is subject to exclusive ownership and is referred herein to each of the separate and identified Units delineated in Exhibit "A".

4.7 "Unit Owner" means and refers to the record owner of legal title to a Unit, except that for the purpose of interpreting use and occupancy restrictions related to Units, in cases where a Primary Occupant has been designated for a Unit because of its ownership, the word "Unit Owner" refers to the Primary Occupant and not the record Unit Owner.

4.18 "Voting Interest" means and refers to the arrangement established in the Condominium Documents by which the Owners of each Unit collectively are entitled to one vote in Association matters. There are thirty-three (33) Units and therefore there are a total of thirty-three (33) Voting Interests.

5. DESCRIPTION OF IMPROVEMENTS: SURVEY AND PLANS:

5.1 Survey and Plot Plans. Incorporated by reference as Exhibit "3" is a survey of the Land and plot plans, which graphically describe the improvements in which Units are located, and which show all the Units including their identification numbers, locations and approximate dimensions and the Common Elements and Limited Common Elements. Each Unit includes that part of the building that lies within the following boundaries:

(A) Upper and Lower Boundaries. The upper and lower boundaries of the Unit are the following boundaries, extended to their intersections with the perimeter boundaries:

(1) Upper Boundaries.

(a) Units Next to Roof. The horizontal plane of the underside of the roof slab of the floor above and where there is attached to the roof a deck, canopy, stairway, or other portion of the building serving only the Unit being bounded, such boundary shall be deemed to include all of such structures and fixtures thereon.

(b) Other Units. The horizontal plane of the undersurfaces of the slab of the floor above.

(2) Lower Boundaries. The horizontal plane of the undecorated finished floor.

(B) Perimeter Boundaries. The perimeter boundaries of the Unit shall be the vertical plane of the centerline of the walls separating the Unit from the elevator lobby; the vertical planes of the unfinished interior surfaces of the plasterboard walls bounding the Unit on all other sides as shown in Exhibit "3", extended to their intersections with each other and with the upper and lower boundaries.

(C) Interior Walls. No part of the non-structural interior partition walls shall be considered part of the boundary of a Unit.

(D) Apertures. Where there are openings in any boundary, including, without limitation, windows, doors and skylights, the boundaries of the Unit shall extend to the exterior finished surfaces of

the coverings of such openings, and their frameworks thereof. Therefore, windows, doors, screens and all framings, casings and hardware therefore, are included in the Unit.

6. CONDOMINIUM PARCELS: APPURTENANCES AND USE:

6.1 Appurtenances to Each Unit. The Owner of each Unit shall have certain rights and own a certain interest in the Condominium Property, including without limitation the following:

(A) Ownership. Ownership of the Unit together with a one thirty-third (1/33) undivided share in the Land and other Common Elements of the Condominium and the Common Surplus.

(B) Membership. Membership and voting rights in the Association is acquired and exercised pursuant to the provisions of the Amended and Restated Bylaws and Amended and Restated Articles of Incorporation of the Association, attached hereto as Exhibits "4" and "5", respectively.

(C) Right to Use Common Elements. The exclusive right to use the Unit and Limited Common Elements reserved for the Unit, and the non-exclusive right to use the Common Elements.

(D) Easements. An exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time. An easement in airspace which is vacated shall be terminated automatically.

(E) Other Appurtenances. Other appurtenances that may be provided in this Declaration and its exhibits and the Condominium Act.

Each Unit and its appurtenances constitutes a "Condominium Parcel".

6.2 Use and Possession. A Unit Owner is entitled to exclusive use and possession of his Unit. He is entitled to use the Common Elements in accordance with the purposes for which they are intended, but no use of the Unit or the Common Elements may unreasonably interfere with the rights of other Unit Owners or other persons having rights to use the Condominium Property. No Unit may be subdivided, and no fractional portion may be sold, leased or otherwise transferred. The use, occupancy, alteration, transfer and appearance of the Units, Common Elements and Limited Common Elements shall be governed by the Condominium Documents.

7. COMMON ELEMENTS: EASEMENTS:

7.1 Definition. The term "Common Elements" means all portions of the Condominium Property not included within the Units, and includes without limitation the following:

(A) Land. The land upon which the improvements are located is a Common Element.

(B) Building. All portions of the building and other improvements not included within the Units are Common Elements, except for certain portions of the Common Elements which are designated as Limited Common Elements.

(C) Easements. Easements through Units for conduits, ducts, plumbing, wiring, and other facilities for furnishing utility services to other Units and the Common Elements, and an easement of support in every portion of a Unit which contributes to the support of a building are Common Elements.

(D) Supply of Services. The property and installments required for furnishing utilities and other services to more than one Unit or to the Common Elements are Common Elements.

(E) Other Common Elements. Any other parts of the Condominium Property designated as Common Elements in this Declaration or any recorded exhibit thereto or under Florida condominium law also constitute Common Elements.

(F) Beach Access Easement. A beach access easement over and across a part of Lots 16 and 17 of Block 12, and Commons "U", located in Park Shore Unit No. 5, according to the plat thereof recorded in Plat Book 12, Pages 39 and 40, of the Public Records of Collier County, Florida. The easement is also over and across part of Commons "T" of Park Shore Unit No. 2, according to Plat Book 8, Pages 54 and 55, of the Public Records of Collier County, Florida. The easement is recorded at O.R. Book 777, Page 97, of the Public Records of Collier County, Florida.

7.2 Easements. Each of the following easements and easement rights are reserved through the Condominium Property and are covenants running with the land of the Condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any land from the Condominium. None of these easements may be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of Unit Owners with respect to such easements.

(A) Utility and other Easements. The Association has the power, without the joinder of any Unit Owner, to grant, modify or move easements such as electric, gas, cable television, telecommunications, telephone, water, sewer, electronic security or other utility or service easements, or relocate any existing easements, in any portion of the Common Elements or Association Property, and to grant easements or relocate any existing easements in any portion of the Common Elements or Association Property, as the Association shall deem necessary or desirable for the proper operation and maintenance of the Condominium, or for the general health or welfare of the Unit Owners. Such easements or the relocation of existing easements may not prevent or unreasonably interfere with the use of the Units. The Association may also transfer title to utility-related equipment, facilities or material, and to take any other action to satisfy the requirements of any utility company or governmental agency to which any such utility-related equipment, facilities or material are to be so transferred. In connection with the foregoing, bills of sale may be granted for items of personal property owned or governed by the Association.



(B) Encroachments. If any Unit encroaches upon any of the Common Elements or upon any other Unit for any reason other than the intentional act of the Unit Owner, or if any Common Element encroaches upon any Unit, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.

(C) Ingress and Egress. A non-exclusive easement shall exist in favor of each Unit Owner and occupant, their respective Guests, lessees, licensees and invitees for pedestrian traffic over, through and across sidewalks, streets, paths, walks, and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways. None of the easements specified in this paragraph shall be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering such easements shall automatically be subordinate to the rights of Unit Owners with respect to such easements.

(D) Easements Created and Reserved in Original Declaration. The Condominium is also subject to such other easements created and reserved in the original Declaration in addition to those easements previously recorded in the Public Records of Collier County, Florida or easements created under the Condominium Act.

7.3 Restraint Upon Separation and Partition. The undivided share of ownership in the Common Elements and Common Surplus appurtenant to a Unit cannot be conveyed or separately described. As long as the Condominium exists, the Common Elements cannot be partitioned. The shares in the funds and assets of the Association cannot be assigned, pledged or transferred except as an appurtenance to the Units. However, the foregoing shall not prevent the Association from pledging, assigning or otherwise encumbering Assessments and personal property owned by the Association as collateral for a loan. The Association may borrow money without membership approval if the purpose of the loan is to pay insurance premiums or, as set forth in Section 4.18(M) of the Bylaws, in accordance with Section 718.1265 of the Condominium Act, in response to damage caused by an event for which a state of emergency is declared pursuant to Section 252.36, Florida Statutes, in the locale in which the Condominium is located,. For purposes other than paying insurance premiums or as set forth in Section 4.18(M) of the Bylaws, the Association may borrow up to \$25,000.00 per fiscal year without membership approval, but any borrowing in excess of \$25,000.00 per fiscal year for such purposes shall require approval from a majority of the Voting Interests.

## 8. LIMITED COMMON ELEMENTS:

8.1 Description of Limited Common Elements. Certain Common Elements have been reserved for the use of a particular Unit or Units, to the exclusion of the other Units. The Limited Common Elements and the Units to which their exclusive use is appurtenant, are as described in this Declaration and its recorded exhibits. The following Common Elements are hereby designated as

Limited Common Elements:

(A) Parking Spaces. There are designated on the survey and plot plan attached hereto certain parking spaces as Limited Common Elements. The survey and plot plan was amended as reflected in amendments recorded in O.R. Book 2062 at Page 1952 and O.R. Book 2808 at Page 2539, both of the Public Records of Collier County, Florida. Each Unit must always have at least two (2) assigned spaces. These parking spaces have been assigned to the exclusive use of specific Units as identified in the survey and plot plan. The cost of maintenance of all parking spaces shall be a common expense.

(B) Air Conditioning and Heating Equipment. All equipment, fixtures and installations located outside of a Unit, which furnish air conditioning or heating exclusively to that Unit, shall be Limited Common Elements, and shall be maintained, repaired and replaced by, and solely at the expense of, the Owner of the Unit, except as otherwise provided in Section 11.4 below.

(C) Decks, Screened Decks and Planters. Any decks, screened decks or planters attached to and serving exclusively a Unit shall be a Limited Common Element. The Unit Owner shall be responsible for day-to-day cleaning and care, but all painting and maintenance of the exterior surfaces and structures and ground level landscaping of the buildings shall be the responsibility of the Association and shall be a common expense. No balcony, patio or porch may be covered or enclosed in any way without the written prior approval of the Board. The maintenance, repair, replacement and insurance of covering or enclosure shall be the responsibility of the Unit Owner.

(D) Boat Slips. There are designated on Exhibit "3" to the Declaration, certain boat slips as Limited Common Elements. These slips have been assigned to the exclusive use of specific Units. The insurance, maintenance, repairs and replacements of the dock structures is by the Association, as further provided in Section 8.3 below.

(E) Others. Any part of the Common Elements that is connected to or exclusively serves a single Unit, and is specifically required in Section 11 of this Declaration to be maintained, repaired or replaced by or at the expense of the Unit Owner, shall be deemed a Limited Common Element appurtenant to that Unit, whether specifically described above or not. This paragraph includes windows, screens and doors, including all hardware and framing therefore.

8.2 Exclusive Use; Transfer of Use Rights. The exclusive use of a Limited Common Element is an appurtenance to the Unit or Units to which it is designated or assigned. If after all of the Units have been sold the exclusive use of any assignable Limited Common Element was not, for any reason, assigned to the use of a specific Unit or Units by the developer of the Condominium, the Association may do so. The right of exclusive use of each Limited Common Element passes with the Unit to which it is assigned, whether or not separately described, and cannot be separated from it; except that the use rights to a particular parking place or boat slip may be exchanged between Units or transferred to another Unit as follows:

(A) The Unit Owners desiring to exchange use rights shall submit a written request to the Board. If the Board approves the exchange, the Unit Owners involved shall then execute a Certificate of Transfer which shall include the recording data identifying this Declaration, and be executed by the Association and the Unit Owners with the formalities required for the execution of a deed.

(B) The transfer of use rights shall be complete and effective when the Certificate is recorded in the Public Records of Collier County, Florida. The costs of preparing and recording the Certificate shall be borne by the Unit Owners desiring the exchange or transfer.

8.3 Maintenance, Repair, Replacement and Insurance of Certain Limited Common Elements. The Limited Common Elements described in Section 8.1(D) above are available only to certain Units, and not to all Units generally. In order to provide for efficient, effective, and uniform maintenance of these Limited Common Elements, the cost of all insurance, maintenance, repairs and replacements shall be by the Association, but the expense thereof shall be borne only by the Units having the use of those Limited Common Elements. The share of these expenses, including the funds necessary to maintain adequate reserves for these expenses, payable by the Unit Owner of the Unit to which each slip is assigned shall be a fraction, the numerator of which is the number "one" and the denominator of which is the total number of boat slips.

9. ASSOCIATION: The operation of the Condominium is by Ardisone Condominium Association, Inc., a Florida corporation not for profit, which shall perform its function pursuant to the following:

9.1 Bylaws. A copy of the Amended and Restated Bylaws is attached as Exhibit "4".

9.2 Articles of Incorporation. A copy of the Amended and Restated Articles of Incorporation of the Association is attached as Exhibit "5".

9.3 Delegation of Management. The Association may contract for the management and maintenance of the Condominium Property or employ a licensed manager or management company to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, keeping of records, enforcement of the Condominium Documents, and maintenance, repair and replacement of the Common Elements with funds made available by the Association for such purposes. The Association and its Officers however shall retain at all times the powers and duties provided in the Condominium Act.

9.4 Membership. The membership of the Association shall be the record owners of legal title to the Units, as further provided in the Bylaws.

9.5 Acts of the Association. Unless the approval or affirmative vote of the Unit Owners is

specifically made necessary by some provision of the Condominium Act or the Condominium Documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board, without a vote of the Unit Owners. The Officers and Directors of the Association have a fiduciary relationship to the Unit Owners. A Unit Owner does not have the authority to act for the Association by reason of being a Unit Owner.

9.6 Powers and Duties. The powers and duties of the Association include those set forth in the Condominium Act and the Condominium Documents. The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the Condominium Property and Association Property. The Association may impose fees for the use of Common Elements or Association Property if the fees relate to expenses incurred by a Unit Owner having temporary, exclusive use of the Common Elements or Association Property. The Association has the power to enter into agreements to acquire leaseholds, memberships and other ownership, possessory or use interests in lands or facilities, whether or not the lands or facilities are contiguous to the lands of the Condominium, for the use and enjoyment of the Unit Owners. The acquisition of additional real property by the Association shall not be deemed a material change in the appurtenances to the Units. However, agreements acquiring leaseholds, memberships or other possessory or use interests shall be considered a material alteration or substantial addition to the Association's real property.

9.7 Purchase of Units. The Association has the power to purchase one or more Units in the Condominium, and to own, lease, mortgage, or convey them, such power to be exercised by the Board. There shall be no limitation on the Association's right to purchase a Unit at a foreclosure sale resulting from the Association's foreclosure of its lien for unpaid Assessments and to receive a Certificate of Title from the Clerk of the Court, or to take title by deed in lieu of foreclosure.

9.8 Acquisition of Property. The Association has the power to acquire property, both real and personal. The power to acquire personal property shall be exercised by the Board. Except as otherwise provided in Section 9.7 above, the power to acquire ownership interests in real property shall be exercised by the Board, but only after approval by at least two-thirds (2/3) of the Voting Interests.

9.9 Disposition of Property. Any property owned by the Association, whether real, personal or mixed, may be mortgaged, conveyed, leased or otherwise encumbered or disposed of by the same authority as would be required to acquire it pursuant to Sections 9.7 and 9.8 above.

9.10 Roster. The Association shall maintain a current roster of all Unit Owners and their mailing addresses, Unit identifications, and, if known, telephone numbers, based upon information supplied by the Unit Owners. The Association shall also maintain the electronic mailing addresses and facsimile numbers designated by Unit Owners for receiving notice by electronic transmission, but only for those Unit Owners who have consented to receive Association notices by electronic transmission. The electronic mailing addresses and facsimile numbers of a Unit Owner shall be removed from the

Association's official records when consent to receive notice by electronic transmission is revoked. However, the Association is not liable for the inadvertent disclosure of the electronic mail address or the facsimile number for receiving electronic transmission of notices. In the absence of the Unit Owner's written consent, the roster shall not include any address other than as provided to fulfill the Association's notice requirements, with the exception of the Unit's address.

9.11 Limitation on Liability. Notwithstanding its duty to maintain and repair the condominium or Association Property, the Association shall not be liable to Unit Owners for personal injury or property damage which is caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or Unit Owners or other persons.

10. ASSESSMENTS AND LIENS: The Association has the power to levy and collect Assessments against each Unit and Unit Owner in order to provide the necessary funds for proper operation and management of the Condominium and for the operation of the Association. This power includes both "Regular Assessments" for each Unit's share of the Common Expenses as set forth in the annual budget, and "Special Assessments" for unusual, nonrecurring or unbudgeted Common Expenses. The Association may also levy special charges against any individual Unit for any amounts, other than for Common Expenses, which are properly chargeable against such Unit under this Declaration or the Bylaws. Assessments shall be levied and payment enforced as provided in the Bylaws, and as follows:

10.1 Common Expenses. Common Expenses include the expenses of operation, maintenance, repair, replacement or insurance of the Common Elements and Association Property, the expenses of operating the Association, and any costs of insurance acquired by the Association under the authority of Fla. Statutes Section 718.111(11), including the costs and contingent expenses required to participate in a self-insurance fund authorized and approved pursuant to Fla. Statutes Section 624.462, and any other expenses properly incurred by the Association for the Condominium, including amounts budgeted for the purpose of funding reserve accounts. The cost of water and sewer service to the Units shall be a Common Expense. If the Association contracts for pest control within Units or other bulk services, the cost of such services shall be a Common Expense. If the Association contracts on a bulk basis for communications services as defined in Chapter 202, Florida Statutes, information services or Internet services, the cost of such bulk services is a Common Expense. A contract for communications services as defined in Chapter 202, Florida Statutes, information services or Internet services, must be for a least two (2) years.

10.2 Share of Common Expenses. The Unit Owner of each Unit shall be liable for a share of the Common Expenses equal to his share of ownership of the Common Elements and the Common Surplus, as set forth in Section 6.1 above.

10.3 Ownership. Assessments and other funds collected by or on behalf of the Association become the property of the Association; no Unit Owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his Unit. No Unit Owner can withdraw or receive distribution of his share of the Common Surplus, except as otherwise provided herein or by law.

10.4 Who is Liable for Assessments. The Unit Owner of each Unit, regardless of how title was acquired, is liable for all Assessments or installments thereon coming due while he is the Unit Owner. Multiple Unit Owners are jointly and severally liable. Except as provided in Section 20.3 below, whenever title to a Condominium Parcel is transferred for any reason, the new Unit Owner is jointly and severally liable with the previous Unit Owner for all Assessments which came due prior to the transfer and remain unpaid without prejudice to any right the new Unit Owner may have to recover from the previous Unit Owner any amounts paid by the new Unit Owner.

10.5 No Waiver or Excuse from Payment. The liability for Assessments may not be avoided or abated by waiver of the use or enjoyment of any Common Elements, by abandonment of the Unit on which the Assessments are made, or by interruption in the availability of the Unit of the Common Elements for any reason whatsoever. No Unit Owner may be excused from payment of his share of the Common Expenses unless all Unit Owners are likewise proportionately excused from payment, except as otherwise provided in Section 20.3 below as to certain mortgagees.

10.6 Application of Payments; Failure to Pay; Interest. Assessments and installments thereon paid on or before ten (10) days after the date due shall not bear interest, but the Association may charge interest at the highest rate allowed by law, calculated from the date due until paid on all sums not timely paid. The Association may also impose a late payment fee (in addition to interest) to the extent permitted by law. Assessments and installments thereon shall become due, and the Unit Owner shall become liable for said Assessments or installments, on the date established in the Bylaws or otherwise set by the Board for payment. All payments on account shall be applied first to interest, then to late payment fees, court costs and attorney's fees, and finally to delinquent Assessments. No payment by check is deemed received until the check has cleared. However, after the check clears, it shall be deemed to have been paid when received. The foregoing is applicable notwithstanding Section 673.3111, Florida Statutes, any purported accord and satisfaction, or any restrictive endorsement, designation, or instruction placed on or accompanying a payment.

10.7 Acceleration. If any Special Assessment or installation of a Regular Assessment as to a Unit becomes more than thirty (30) days past due, and a Claim of Lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the Unit's Assessments for that fiscal year. The due date for all accelerated amounts shall be the date the Claim of Lien was recorded in the public records. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorney's fees and costs as provided by law, and said Claim of Lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate shall be exercised by sending to the delinquent Unit Owner a notice of the exercise, which notice shall be sent by certified or registered mail to the Unit Owner's last known address, and shall be deemed given upon mailing of the notice, postpaid. The notice may be given as part of the notice of intent to foreclose, as required by Section 718.116 of the Condominium Act, or may be sent separately.

10.8 Liens. The Association has a lien on each Condominium Parcel securing payment of past

due Assessments, including interest and attorney's fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien, whether before, during or after a lien foreclosure suit. Except as otherwise provided by Section 718.116 of the Condominium Act, the lien is effective from and shall relate back to the recording of the original Declaration of Condominium. However, as to first mortgages of record, the lien is effective from and after recording of a Claim of Lien in the Public Records of Collier County, Florida. The Claim of Lien must state the description of the Condominium Parcel, the name of the record Unit Owner, the amount due, the name and address of the Association, and the due dates. The lien is in effect until barred by law. The Claim of Lien secures all unpaid Assessments that are due and that may accrue after the Claim of Lien is recorded and through the entry of a final judgment, as well as interest, administrative late fees and all reasonable costs and attorney's fees incurred by the Association incident to the collection process. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

10.9 Priority of Lien. The Association's lien for unpaid Assessments shall be subordinate and inferior to the lien of a recorded first mortgage, but only to the least extent required by the Condominium Act, as amended from time to time. The Association's lien shall be superior to, and take priority over, any other mortgage or lien regardless of when the mortgage or lien was recorded, except as otherwise expressly provided by law. Any lease of a Unit shall be subordinate and inferior to the Association's lien, regardless of when the lease was executed.

10.10 Foreclosure of Lien. The Association may bring an action in its name to foreclose its lien for unpaid Assessments in the manner provided in the Condominium Act, and may also bring an action to recover a money judgment for the unpaid Assessments without waiving any lien rights.

10.11 Certificate as to Assessments. Pursuant to Section 718.116(8) of the Condominium Act, within 10 business days after receiving a written or electronic request by a Unit Owner, or his or her designee, or Unit mortgagee, or his or her designee, the Association shall issue an estoppel certificate (sometimes referred to as an "estoppel letter"). The estoppel certificate must be provided by hand delivery, regular mail or e-mail to the requesting party on the date the estoppel certificate is issued. The estoppel certificate shall be substantially in the form set forth in Section 718.116(8) of the Condominium Act. Notwithstanding any limitation on transfer fees contained in Section 718.112(2)(i) of the Condominium Act, the Association or its authorized agent may charge a reasonable fee for the preparation and delivery of the estoppel certificate. The fee shall not exceed the amount permitted by Section 718.116(8) of the Condominium Act. The authority to charge a fee for the preparation and delivery of an estoppel certificate shall be established by a written resolution adopted by the Board or provided by a written management, bookkeeping, or maintenance contract and is payable upon the preparation of the certificate. If the estoppel certificate is requested in conjunction with the sale or mortgage of a Unit but the closing does not occur and no later than thirty (30) days after the closing date for which the estoppel certificate was sought the preparer receives a written request, accompanied by reasonable documentation, that the sale did not occur from a payor that is not the Unit Owner, the fee shall be refunded to that payor within thirty (30) days after receipt of the request. The refund is the

obligation of the Unit Owner, and the Association may collect it from that Unit Owner in the same manner as an Assessment as provided in the Condominium Act. The Association or its authorized agent is not required to provide a prospective purchaser or lienholder with information about the Condominium or the Association other than information or documents required by the Condominium Act to be made available or disclosed. The Association or its authorized agent may charge a reasonable fee to a prospective purchaser, lienholder, or the Unit Owner for providing good faith responses to requests for information by or on behalf of a prospective purchaser or lienholder, other than information required by law to be made available or disclosed, if the fee does not exceed \$150.00 plus the reasonable cost of photocopying and any attorney's fees incurred by the Association in connection with the response. The Association and its authorized agent are not liable for providing such information in good faith pursuant to a written request if the person providing the information includes a written statement in substantially the following form: "The responses herein are made in good faith and to the best of my ability as to their accuracy".

10.12 Enforcement Against Tenants. Subject to the procedures and limitations set forth in Section 718.116 (11) of the Condominium Act, if a Unit is occupied by a Tenant and the Unit Owner is delinquent in paying any monetary obligation due to the Association, the Association may make a written demand that the Tenant pay to the Association the subsequent rental payments and continue to make such payments until all monetary obligations of the Unit Owner related to the Unit have been paid in full to the Association. The Tenant must pay the monetary obligations to the Association until the Association releases the Tenant or the Tenant discontinues tenancy in the Unit. The Association may issue notice and sue for eviction as if the Association were a landlord if the Tenant fails to pay a required payment to the Association after written demand has been made to the Tenant. However, the Association is not otherwise considered a landlord.

11. MAINTENANCE: LIMITATIONS UPON ALTERATIONS AND IMPROVEMENTS: Responsibility for the protection, maintenance, repair and replacement of the Condominium Property, and restrictions on its alteration and improvement shall be as follows (notwithstanding anything to the contrary contained in this Declaration, responsibility for items following an insurable event is set forth in Section 15):

11.1 Association Maintenance. The Association is responsible for the protection, maintenance, repair and replacement of all Common Elements and Association Property (other than the Limited Common Elements that are required elsewhere herein to be maintained by the Unit Owner). The cost is a Common Expense. The Association's responsibilities include without limitation:

- (A) Electrical wiring up to the circuit breaker panel in each Unit.
- (B) Sewer lines up to the point where the sewer line enters the Unit.
- (C) Water lines up to the individual Unit cut-off valve within or serving the Unit.



(D) All installations, Fixtures and equipment located within one Unit but serving another Unit, or located outside the Unit, for the furnishing of utilities to more than one Unit or the Common Elements.

(E) The plantings and planters located outside each Unit.

(F) All exterior building walls.

(G) Elevators.

(H) The exterior surface of the main doors to each Unit.

(I) Fire alarm systems if part of an overall system serving a building as opposed to an individual smoke detector that is not part of such overall system.

The Association's responsibility does not include interior wall switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within a Unit and serving only that Unit. All incidental damage caused to a Unit or Limited Common Elements by work performed or ordered to be performed by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the property as nearly as practical to its condition before the incidental damage, and the cost shall be a Common Expense, except the Association shall not be responsible for the damage to any alteration or addition made by a Unit Owner without prior Association approval as required elsewhere herein, nor shall the Association be responsible for repair or restoration costs if the need for the work was caused by the negligence of the Unit Owner.

11.2 Unit Owner Maintenance. Each Unit Owner is responsible, at his own expense, for all maintenance, repairs, and replacements of his own Unit and certain Limited Common Elements. The Unit Owner's responsibilities include, without limitation:

(A) Maintenance, repair and replacement of screens, windows, window glass, sliding glass doors and all related hardware and frameworks

(B) All doors affording access to or those inside the Unit, including the related hardware and framework, but excluding the exterior surface of the main doors to each Unit.

(C) Except as set forth in Section 11.1, electrical, mechanical and plumbing Fixtures, switches, valves, drains and outlets (including connections) located partially or entirely within the Unit and serving only the Unit.

(D) The circuit breaker panel and all electrical wiring going into the Unit from the panel.

(E) Appliances, water heaters and vent fans.

- (F) Air conditioning, and heating equipment, thermostats, ducts and installations serving the Unit exclusively.
- (G) Built-in cabinets, appliances, water heaters, smoke alarms and vent fans.
- (H) Carpeting and other floor coverings in the Unit or on its balcony.
- (I) The main water supply shut-off valve for the Unit.
- (J) Shower pans.
- (K) All interior, partition walls which do not form part of the boundary of the Unit.

In accordance with Section 718.113 of the Condominium Act, the Board of Directors may, subject to Section 718.3026 of the Condominium Act and the approval of a majority of the Voting Interests, install hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection that comply with or exceed the applicable building code. As set forth in Section 718.113 of the Condominium Act, the maintenance, repair, and replacement of such items are the responsibility of the Unit Owner. The Board of Directors may operate shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection installed pursuant to Section 718.113 of the Condominium Act without permission of the Unit Owners only if such operation is necessary to preserve and protect the Condominium Property and Association Property. The installation, replacement, operation, repair, and maintenance of such shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection in accordance with the procedures set forth in Section 718.113 of the Condominium Act are not a material alteration to the Common Elements or Association Property.

The cost of the installation of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection as described above is not a Common Expense and shall be charged individually to the Unit Owners based on the cost of installation of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection appurtenant to the unit. A Unit Owner who previously installed hurricane shutters in accordance with Section 718.113 of the Condominium Act that comply with the current applicable building code shall receive a credit when the shutters are installed; a Unit Owner who previously installed impact glass or code-compliant windows or doors that comply with the current applicable building code shall receive a credit when the impact glass or code-compliant windows or doors are installed; and a Unit Owner who previously installed other types of code-compliant hurricane protection that comply with the current applicable building code shall receive a credit when the same type of other code-compliant hurricane protection is installed, and the credit shall be equal to the pro rata portion of the assessed installation cost assigned to each Unit. However, such Unit Owner remains responsible for the pro rata share of expenses for hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection installed on Common Elements and Association Property by the

Board of Directors pursuant to Section 718.113 of the Condominium Act and remains responsible for a pro rata share of the expense of the replacement, operation, repair, and maintenance of such shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection.

11.3 Other Unit Owner Responsibilities. The Unit Owner shall have the following responsibilities:

(A) Decks, Screened Decks and Planters. Where a Limited Common Element consists of a deck, screened deck or planter, the Unit Owner who has the right of exclusive use of said Limited Common Element shall be responsible for the day-to-day cleaning and care of: the walls, floor and ceiling bounding said area, if any; and any fixed glass and sliding glass doors in portions of the entrance way to said area, if any; and the wiring, electrical outlet(s) and Fixture(s) thereon, if any, and the replacement of light bulbs. The Association is responsible for the maintenance, repair and replacement of all exterior walls of the building and concrete slabs.

(B) Interior Decorating. Each Unit Owner is responsible for all decorating inside his own Unit, including painting, wallpapering, paneling, floor covering, draperies, window shades, curtains, lamps and other light Fixtures, and other furnishings and interior decorating.

(C) Flooring. All Units above the ground floor shall always have the floors covered with wall-to-wall carpeting installed over high quality padding, except carpeting is not required in kitchens, bathrooms or laundry rooms. A Unit Owner who desires to install in place of carpeting any hard-surface floor covering (e.g. marble, slate, ceramic tile, parquet) shall also install a sound absorbent underlayment of such kind and quality as to substantially reduce the transmission of noise to adjoining Units, and must obtain written approval of the Board prior to any such installation. If the installation is made without prior approval the Board may, in addition to exercising all other remedies provided in this Declaration, require the Unit Owner to cover all such hard-surface flooring with carpeting, or require the removal of such hard-surface flooring at the expense of the offending Unit Owner. No carpeting of any kind may be installed on or affixed to concrete surface exposed to the elements.

(D) Window Coverings. The covering and appearance of windows and doors whether by draperies, shades, reflective film or other items, whether installed within or outside of the Unit, visible from the exterior of the Unit, shall be subject to regulation by the Board and the Condominium Documents.

(E) Modifications and Alterations. If a Unit Owner makes any modifications, alterations, installations or additions to his Unit, Limited Common Element or the Common Elements, the Unit Owner and his successors in title shall be financially responsible for the insurance, maintenance, repair and replacement of the modifications, installations, alterations or additions, as well as the cost of repairing any damage to the Limited Common Elements and/or Common Elements resulting from such modifications, installations or additions, and the costs of removing, replacing or reinstalling such

modifications if their removal by the Association becomes necessary in order to maintain, repair, replace or protect other parts of the Condominium Property. The Board may not refuse the request of a Unit Owner for a reasonable accommodation for the attachment on the mantel or frame of the door of the Unit Owner of a religious object not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep.

(F) Use of Licensed and Insured Contractors; Construction Lien Law. Whenever a Unit Owner contracts for maintenance, repair, replacement, alteration, addition or improvement of any portion of the Unit, Limited Common Element or Common Elements, whether with or without Association approval, such Unit Owner shall be deemed to have warranted to the Association and its Members that his contractor(s) are properly licensed and fully insured and that the Unit Owner will be financially responsible for any resulting damage to persons or property. The Unit Owner also agrees to comply with the requirements of Chapter 713, Florida Statutes and to indemnify the Association and its Members from any construction liens which may attach to Limited Common Elements and/or Common Elements and which are attributable to work performed by or for the benefit of the Unit Owner.

11.4 Appliance Maintenance Contracts. If there shall become available to the Association a program of contract maintenance for kitchen appliances or water heaters within Units and/or air-conditioning compressors and/or air handlers serving individual Units, which the Board determines is to the benefit of the Unit Owners to consider, then upon agreement by a majority of the Voting Interests present, in person or by proxy, and voting at a Members' meeting, or upon agreement by a majority of the total Voting Interests by written consents in lieu of a meeting, the Association may enter into such contractual undertakings. The expenses of such contractual undertakings to the Association shall be Common Expenses. All maintenance, repairs and replacements not covered by the contracts shall be the responsibility of the Unit Owner.

11.5 Alteration of Units or Common Elements by Unit Owners. No Unit Owner shall make or permit the making of any structural or material alterations or substantial additions to his Unit or material alterations or substantial additions to his Limited Common Elements, or in any manner change the exterior appearance of any portion of the Condominium, without first obtaining the written approval of the Board, which approval may be denied if the Board determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the Condominium in part or in whole. Any glass, screen, curtain, blind, shutter, awning, or other modifications, additions or installations which may be installed where visible from outside the Unit, are subject to prior approval by the Board and subject to the Condominium Documents. No Unit Owner may alter the Common Elements (except for his Limited Common Elements) in any way. The Association shall have the ability to impose reasonable Rules and Regulations on construction within Units, including without limitation: establishing permitted working hours; the requirements for a compliance bond or deposit; and the period of time within a calendar year in which work that constitutes a structural or material alteration or substantial addition is permitted in Units.

11.6 Alterations and Additions to Common Elements and Association Property. The

protection, maintenance, repair, insurance and replacement of the Common Elements and Association Property is the responsibility of the Association and the cost is a Common Expense. Beyond this function, the Association shall make no material alteration of, nor substantial additions to, the Common Elements or the real property owned by the Association costing in excess of \$25,000.00 in any calendar year, without prior approval of at least two-thirds (2/3) of the Voting Interests. Alterations or additions costing less than this amount may be made with Board approval. If work reasonably necessary to protect, maintain, repair, replace or insure the Common Elements or Association Property or to comply with any local, state or federal law or regulation also constitutes a material alteration or substantial addition to the Common Elements, no prior Unit Owner approval is required.

11.7 Enforcement of Maintenance. If after reasonable notice the Owner of a Unit fails to maintain the Unit or its appurtenant Limited Common Elements as required in this Declaration, the Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other lawful actions to remedy such violation, including but not limited to, entering the Unit, with or without notice to or consent of the lessee or Unit Owner, to repair, replace, or maintain any item which in the reasonable judgment of the Board may constitute a health or safety hazard to other property or residents or which has a material adverse effect on the appearance of the Condominium. Any expenses incurred by the Association in performing work within the Unit or Limited Common Element as authorized by this Declaration shall be charged to the Unit Owner, together with reasonable attorney's fees and other expenses of collection, if any.

11.8 Negligence; Damage Caused by Condition in Unit. The Unit Owner of each Unit shall be liable for the expenses of any maintenance, repair or replacement of Common Elements, other Units, or personal property made necessary by his wrongful act or negligence, or by that of any member of his Family or his Guests, employees, agents, or lessees. Each Unit Owner has a duty to maintain his Unit, any Limited Common Element appurtenant to the Unit (other than those Limited Common Elements required to be maintained by the Association pursuant to this Declaration), and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other Units, the Common Elements or the property of other Unit Owners and residents. If any condition, defect or malfunction, resulting from the Unit Owner's failure to perform this duty causes damage to other Units, the Common Elements, Association Property or property within other Units, the Unit Owner of the offending Unit shall be liable for the damage. Neither the Association nor any Unit Owner shall be liable for any damage to the real or personal property any improvements or betterments thereof or any injury to any person caused by water intrusion into a Unit from another Unit or the Common Elements, resulting from rain leakage, pipe leakage, overflow or bursting, or other similar source unless the Association or the Unit Owner is guilty of negligence. It shall be presumed that a Unit Owner is guilty of negligence in the event the Unit Owner violates Section 11.14 below.

11.9 Association's Access to Units. Pursuant to Section 718.111(5)(a) of the Condominium Act, the Association has an irrevocable right of access to each Unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any Common Elements or of any portion of a

Unit to be maintained by the Association pursuant to this Declaration, or as necessary to prevent damage to the Common Elements or to a Unit. The Association may enter an "abandoned" (as such term is defined in Section 718.111(5)(b) of the Condominium Act) Unit to inspect the Unit and adjoining Common Elements; make repairs to the Unit or to the Common Elements serving the Unit, as needed; repair the Unit if mold or deterioration is present; turn on utilities for the Unit; or otherwise maintain, preserve, or protect the Unit and adjoining Common Elements. The Association's right of access includes, without limitation, entry for purposes of pest control and preventive maintenance of safety equipment such as fire alarms and sprinkler systems as well as the right, but not the duty, to enter under circumstances where the health or safety of residents may be endangered. The exercise of the Association's rights of access to the Unit shall be accomplished with due respect for the rights of occupants to privacy and freedom from unreasonable annoyance, as well as with appropriate precautions to protect the personal property within the Unit. The Association may retain a pass-key to all Units. If it does, no Unit Owner shall alter any lock, nor install a new lock, which prevents access when the Unit is unoccupied, unless the Unit Owner provides the Association with a key. If the Association is not given a key to the Unit, the Unit Owner shall pay all costs incurred by the Association in gaining entrance to his Unit, and also shall be responsible for any damage done to his Unit in gaining entrance thereto, and shall also be liable for any damage resulting from delay in gaining entrance to his Unit caused by the unavailability of a key. Any expense incurred by the Association pursuant to Section 718.111(5)(b) of the Condominium Act is chargeable to the Unit Owner and enforceable as an Assessment pursuant to Section 718.116 of the Condominium Act, and the Association may use its lien authority provided by Section 718.116 of the Condominium Act to enforce collection of the expense. The Association may petition a court of competent jurisdiction to appoint a receiver to lease out an abandoned Unit for the benefit of the Association to offset against the rental income the Association's costs and expenses of maintaining, preserving, and protecting the Unit and the adjoining Common Elements, including the costs of the receivership and all unpaid Assessments, interest, late fees, costs, and reasonable attorneys' fees.

11.10 Pest Control. The Association may supply pest control services for the inside of each Unit, with the cost thereof being part of the Common Expenses. A Unit Owner has the option to decline such service unless the Association determines that such service is necessary for the protection of the balance of the Condominium, in which event the Unit Owner thereof must either permit the Association's pest control company to enter his Unit or must employ a licensed pest control company to enter his Unit on a regular basis to perform pest control services and furnish written evidence thereof to the Association. Because the cost of pest control service provided by the Association is part of the Common Expenses, the election of a Unit Owner not to use such service shall not reduce the Unit Owner's Assessments.

11.11 Balcony and Terrace Enclosures. Notwithstanding anything to the contrary above, the Board may adopt a basic approved plan for enclosures of terraces and balconies, including screening or glassing in. Unit Owners may screen or enclose the balconies, terraces or porches serving their Units in conformity with all respects to the approved basic plan without specific consent from the Board.

11.12 Hurricane Shutters. The installation of hurricane shutters, impact glass, code-compliant

windows or doors, or other types of code-compliant hurricane protection by a Unit Owner shall be subject to regulation by the Board of Directors in accordance with its specifications. The Board of Directors shall not refuse to approve the installation or replacement of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by a Unit Owner if the installation or replacement conforms to the specifications adopted by the Board of Directors and the applicable building code. The Board of Directors' specifications shall also regulate style and may include other factors deemed relevant by the Board. The installation, replacement, operation, repair and maintenance of hurricane shutters and other types of code-compliant hurricane protection shall not be deemed a material alteration to the Common Elements.

11.13 Board Approval of Alterations or Construction. In all cases in which the Board must approve construction in or alterations to a Unit or the Common Elements requested by a Unit Owner, the Unit Owner shall provide the Board with not less than thirty (30) days written notice of the Unit Owner's intention, together with plans and specifications indicating the proposed construction. The Board shall indicate its approval or disapproval of the proposed construction in writing within thirty (30) days of receipt of the notice and all required plans. The Board reserves the right to consult with a licensed Florida architect or professional engineer and to pass such costs on to the Unit Owner and to require that any plans and specifications be prepared by a licensed Florida architect or engineer. The Board may extend the time in which it must render its decision by an additional thirty (30) days in the event it determines a licensed Florida architect's or professional engineer's review is necessary.

11.14 High-Risk Components; Inspection, Maintenance, Repair and Replacement. The Unit Owners may, from time to time, determine that certain portions of Units required to be maintained by Unit Owners, or certain objects or appliances within the Units, pose a particular risk of damage to other Units and to the Common Elements if they are not properly inspected, maintained, repaired or replaced. By way of example, but not limitation, these portions, objects or appliances may include smoke detectors, dryer vents, water valves, water heaters and air conditioners. The items determined by the Unit Owners to pose such a particular risk are referred to a "high-risk components". At the same time that they designate a high-risk component, or at a later time, the Unit Owners shall adopt Rules and Regulations that may require one or more of the following with respect to the high-risk component:

(A) That it be inspected at specified intervals set forth in the Rules and Regulations by a representative of the Association or by inspector(s) designated by the Board of Directors.

(B) That it be replaced or repaired at specified intervals or with reference to manufacturers' warranties, whether or not the individual component is deteriorated or defective.

(C) That it be replaced or repaired with items or components meeting particular standards or specifications established by the Board of Directors.

(D) That when it is repaired or replaced, the installation includes additional components

specified by the Board of Directors.

(E) That it be replaced or repaired by contractors having particular licenses, training or professional certifications, or by contractors approved by the Board of Directors.

(F) If a Unit Owner completes the replacement or repair, it must be inspected by a representative of the Association or inspector(s) designated by the Board of Directors.

The Rules and Regulations relating to high-risk components shall be adopted by a majority of the Voting Interests present, in person or by proxy, and voting at a Members' meeting, or upon agreement by a majority of the total Voting Interests by written consents in lieu of a meeting.

12. USE RESTRICTIONS: The use of the Condominium Property shall be in accordance with the following provisions:

12.1 Units. Each Unit shall be occupied by only one Family, its servants and Guests, as a residence and for no other purpose. In no event shall a Unit be occupied by more persons than permitted by any applicable local ordinance. No business or commercial activity shall be conducted in or from any Unit. The use of a Unit as a public lodging establishment shall be deemed a business or commercial use. This restriction shall not be construed to prohibit any Unit Owner from maintaining a personal or professional library, from keeping his personal, business or professional records in his Unit, or from handling his personal, business or professional telephone calls or written correspondence in and from his Unit. Such uses are expressly declared customarily incidental to residential use.

12.2 Occupancy in Absence of Unit Owner. If the Unit Owner and his Family who permanently reside with him are absent from the Unit, and are not occupying it, and the Unit has not been leased, the Unit Owner may permit his Unit to be occupied by his Guests, but only in accordance with the following:

(A) Any person who is the grandparent, parent, child or sibling of the Unit Owner or the Unit Owner's spouse, if any, and such person's Family, may occupy the Unit in the absence of the Unit Owner without limitation as to the number of occasions or length of stay.

(B) Guests not included within 12.2(A) above are permitted for only one Family occupancy in the Unit Owner's absence and then only with the proviso that the Family consist of no more than one Guest, his spouse, if any, and their children, if any. Such Guests may stay only thirty (30) days, and the number of occasions for this type of guest occupancy in any Unit shall be limited to three (3) in any calendar year.

(C) All overnight Guests who are not accompanied by Unit Owners must be registered with the Association office and authorized by written instructions from the Unit Owner to avoid having their presence challenged by other Unit Owners, security, or management. The Unit Owner shall submit the



names of all Guests and the length of their stay in writing to the management office in advance.

12.3 Exceptions. Upon prior written application by the Unit Owner, the Board may make such limited exceptions to the foregoing restrictions as may be deemed appropriate in the discretion of the Board, for the sole purpose of avoiding undue hardship or inequity. The making of one exception shall not be construed as a precedent for later exceptions.

12.4 Occupancy When Unit Owner is Present. There is no restriction on the number of Occupants, whether related or unrelated to the Unit Owner, who may occupy the Unit together with the Unit Owner or a member of the Unit Owner's Family, except for any applicable local ordinance.

12.5 Minors. All occupants under eighteen (18) years of age shall be supervised as appropriate by an adult to insure that they do not become a source of unreasonable annoyance to other residents. Children under the age of ten (10) years are not allowed in the pool area unless accompanied by an adult.

12.6 Pets. The Owner(s) of each Unit may keep a total of two (2) pets, of a normal domesticated household type (such as a cat or dog) in the Unit, the size of which is in compliance with the Rules and Regulations. Pets must be carried under the Unit Owner's arm, caged or be leashed, at all times while on the Condominium Property outside of the Unit. The ability to keep a pet is a privilege, not a right, and the Board is empowered to order and enforce the removal of any pet which becomes a source of unreasonable annoyance to other residents of the Condominium. No pets of any kind are permitted in leased units. Guests who are not related to the Unit Owner are not permitted to keep a pet in a Unit. No reptiles, rodents, amphibians, poultry, swine or livestock may be kept in the Condominium.

12.7 Nuisances. No Unit Owner shall use his Unit, or permit it to be used, in any manner which constitutes or causes an unreasonable amount of annoyance or nuisance to the occupant of another Unit, or which would not be consistent with the maintenance of the highest standards for a first class residential condominium, nor permit the premises to be used in a disorderly or unlawful way. The use of each Unit shall be consistent with existing laws and the Condominium Documents, and occupants shall at all times conduct themselves in a peaceful and orderly manner.

12.8 Signs. No Unit Owner may post or display signs, including, but not limited to, "For Sale", "For Rent", "Open House", or other similar signs, anywhere on the Condominium Property.

12.9 Use of Common Elements and Outside Areas of Units. Common hallways, stairways and other Common Elements shall not be obstructed, littered, defaced or misused in any manner. Balconies, terraces, porches, walkways and stairways shall be used only for the purposes intended, and they shall not be used for hanging or drying clothing, for outdoor cooking using an open flame, for cleaning of rugs or other household items, or for storage of bicycles or other personal property. Fishing from boat docks is permitted except for fishing over a boat or between closely tied boats. To help keep boats, automobiles and Units free from droppings, feeding of seagulls, pelicans and other birds on or around the

Condominium Property is prohibited.

12.10 Restrictions Related to Boat Slips. The use of boat slips for parking and maintaining of boats is restricted to Unit Owners. The boats tied up to the docking facilities are privately owned and are not to be boarded by anyone except with the express permission of the boat owner. All boats are to be secured to the docks and pilings in such a manner that neither the boats on either side, nor the docks, will suffer damage. Spring lines shall be used. The Board has the right to prohibit what, in its reasonable opinion, is an unsightly or unsafe vessel from being moored at any of the dock facilities. All vessels shall comply with all appropriate environmental and U.S. Coast Guard rules and regulations, including those governing discharge. The maximum length boat allowed to be moored at the docking facilities is forty-two (42) feet. All vessels moored at the docking facilities shall be kept in an aesthetic condition which is harmonious with the quality and appearance of the Condominium.

12.11 Restrictions Related to Parking and Vehicles. The overnight parking of commercial vehicles anywhere on the Condominium Property is prohibited. The term "commercial vehicles" means, without limitation, service vehicles, commercial trucks, vehicles which are used for the primary purpose of transportation of commercial goods, vehicles that contain commercial markings, racks or tools in the bed, boats, trailers, campers, travel trailers, mobile homes and recreational vehicles (except that boats may be kept in boat slips). Vans, two-door or four-door sport utility vehicles and "low-speed vehicles" (as defined in Section 320.01(41), Florida Statutes, shall be considered to be non-commercial vehicles if they are used for the primary purpose of transportation of passengers and their personal possessions and do not contain commercial markings, racks or tools in the bed. Boats shall not be maintained out of the water in the automobile parking areas, or on the Common Elements. The designated parking space or spaces for each individual Unit Owner and designated guest parking shall be used exclusively for parking or storage of permitted vehicles in use or bearing current license plates. The Board of Directors shall have the authority to adopt Rules and Regulations permitting storage of bicycles and beach equipment/toys in Limited Common Element parking spaces.

12.12 Electric Vehicle Charging Stations. Pursuant to Section 718.113(8) of the Condominium Act, the installation of an electric vehicle charging station shall be governed as follows:

(A) The Board of Directors may not prohibit a Unit Owner from installing an electric vehicle charging station for an electric vehicle, as defined in Section 320.01, Florida Statutes, within the boundaries of his or her Limited Common Element parking space. However, the installation shall be subject to the remainder of this Section 12.12

(B) The installation may not cause irreparable harm to the Condominium Property.

(C) The electricity for the electric vehicle charging station must be separately metered and payable by the Unit Owner installing such charging station.

(D) The Unit Owner who installs an electric vehicle charging station is responsible for the costs of installation, operation, maintenance and repair, including, but not limited to, hazard and liability insurance. The Association may enforce payment of such costs pursuant to Section 718.116 of the Condominium Act.

(E) If the Unit Owner or his or her successor decides there is no longer a need for the electronic vehicle charging station, such person is responsible for the cost of removal of the electronic vehicle charging station. The Association may enforce payment of such costs pursuant to Section 718.116 of the Condominium Act.

(F) The Association may require the Unit Owner to:

(1) Comply with bona fide safety requirements, consistent with applicable building codes or recognized safety standards, for the protection of persons and property.

(2) Comply with reasonable architectural standards adopted by the Association that govern the dimensions, placement, or external appearance of the electric vehicle charging station, provided that such standards may not prohibit the installation of such charging station or substantially increase the cost thereof.

(3) Engage the services of a licensed and registered electrical contractor or engineer familiar with the installation and core requirements of an electric vehicle charging station.

(4) Provide a certificate of insurance naming the Association as an additional insured on the Unit Owner's insurance policy for any claim related to the installation, maintenance, or use of the electric vehicle charging station within 14 days after receiving the Association's approval to install such charging station.

(5) Reimburse the Association for the actual cost of any increased insurance premium amount attributable to the electric vehicle charging station within 14 days after receiving the Association's insurance premium invoice.

(G) The Association provides an implied easement across the Common Elements to the Unit Owner for purposes of the installation of the electric vehicle charging station and the furnishing of electrical power, including any necessary equipment, to such charging station, subject to the requirements of this Section 12.12.

12.13 Antennas, Satellite Dishes and Flags. Unit Owners may not install antennas or satellite dishes, except that (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter (b) antennas or satellite dishes designed to receive video

programming services via multi-point distribution services which are one meter or less in diameter; or (c) antennas or satellite dishes designed to receive television broadcast signals, ("Reception Device") shall be permitted, provided that the Reception Device is located on the floor of the lanai of the Unit. However, the Reception Device shall not be bolted to the floor. The Board shall require that a Reception Device be painted in order to blend into the appearance of the rest of the building. The installation and display of flagpoles and flags shall be subject to regulation by the Board, but no Unit Owner shall be prevented from displaying a portable, removable United States flag in a respectful manner or official flag of the State of Florida in a respectful manner, or on Armed Forces Day, Memorial Day, Flag Day, Independence Day and Veterans Day, be prevented from displaying in a respectful manner a portable, removable official US Army, Navy, Air Force, Marine Corps or Coast Guard flag not larger than 4.5' x 6'.

13. LEASING OF UNITS: In order to foster a stable residential community and prevent a motel-like atmosphere, the leasing of Units by their Unit Owners shall be restricted as provided in this section. All leases of Units must be in writing. A Unit Owner may lease only his entire Unit, and then only in accordance with this Section, after receiving the approval of the Association. The lessee must be a natural person as opposed to an artificial entity such as a corporation, partnership or a limited liability company.

13.1 Procedures.

(A) Notice by the Unit Owner. A Unit Owner intending to lease his Unit shall give to the Board or its designee written notice of such intention at least thirty (30) days prior to the first day of occupancy under the lease together with the name and address of the proposed lessee, a fully executed copy of the proposed lease, and such other information as the Board may reasonably require. The Board may require a personal interview with any lessee, his spouse or cohabitant, if any, as a pre-condition to approval.

(B) Board Action. After the required notice and all information or interviews requested have been provided, the Board shall have thirty (30) days in which to approve or disapprove the proposed lease. If the Board neither approves nor disapproves within that time, its failure to act shall be deemed the equivalent of approval, and on demand the Board shall issue a written letter of approval to the lessee.

(C) Disapproval. A proposed lease shall be disapproved only if a majority of the entire Board so votes, and in such case the lease shall not be made. Appropriate grounds for disapproval shall include, but not be limited to, the following:

- (1) the Unit Owner is delinquent in the payment of Assessments at the time the application is considered;
- (2) the Unit Owner has a history of leasing his Unit without obtaining approval, or leasing to troublesome lessees and/or refusing to control or accept responsibility for the occupancy of his Unit;

(3) the real estate company or rental agent handling the leasing transaction on behalf of the Unit Owner has a history of screening lessee applicants inadequately, recommending undesirable lessees, or entering into leases without prior Association approval;

(4) the application on its face indicates that the person seeking approval intends to conduct himself in a manner inconsistent with the Condominium Documents;

(5) the prospective lessee has been convicted of a felony involving violence to persons or property, a felony involving sale or possession of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;

(6) the prospective lessee has a history of conduct which evidences disregard for the rights and property of others.

(7) the prospective lessee evidences a strong probability of financial irresponsibility;

(8) the lessee, during previous occupancy, has evidenced an attitude of disregard for the Condominium Documents;

(9) the prospective lessee gives false or incomplete information to the Board as part of the application procedure, or the required transfer fees and/or security deposit are not paid.

(10) the Unit Owner fails to give proper notice of his intention to lease his Unit to the Board.

(D) Failure to Give Notice or Obtain Approval. If proper notice is not given, the Board at its election may approve or disapprove the lease. Any lease entered into without approval may, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the lessee without securing consent to such eviction from the Unit Owner.

(E) Applications: Assessments. Applications for authority to lease shall be made to the Board on such forms and include such terms as the Board may provide from time to time. The legal responsibility for paying Assessments may not be delegated to the lessee.

To facilitate approval of leases proposed during times when many of the Directors are not in residence, the Board may approve leases by fax, email or telephone and may delegate approval (but not disapproval) authority to a committee or the Association's manager.

13.2 Term of Lease and Frequency of Leasing. The minimum lease term is ninety (90) days. No lease may be for a period of more than one (1) year, and no option for the lessee to extend or renew the lease for any additional period shall be permitted. However, the Board may, in its discretion, approve the same lease from year to year. No subleasing or assignment of lease rights by the lessee is allowed.

13.3 Occupancy During Lease Term. When a Unit has been leased, the Unit may be occupied by the lessee, his Family members within the first degree of relationship by blood, adoption, legal custody or marriage, and their spouses and Guests. The total number of Occupants of a leased Unit is limited to two (2) persons per bedroom, plus two (2).

13.4 Occupancy in Absence of Lessee. If a lessee absents himself from the Unit for any period of time during the lease term, his Family within the first degree of relationship by blood, adoption, legal custody or marriage, and their spouses, already in residence may continue to Occupy the Unit and may have guests subject to all the restrictions in Sections 12 and 13.3 above. If the lessee and all of the Family members within the first degree of relationship by blood, adoption, legal custody or marriage, and their spouses, are absent, no other person may occupy the Unit.

13.5 Use of Common Elements and Association Property. To prevent overtaxing the facilities, a Unit Owner whose Unit is leased may not use the recreation or parking facilities during the lease term, but may continue to keep a boat in his Limited Common Element boat slip. This limitation is notwithstanding any purported waiver by the lessee of its use rights as permitted by the Condominium Act, due to the burden on Association administration.

13.6 Regulation by Association. All of the provisions of the Condominium Documents shall be applicable and enforceable against any person occupying a Unit to the same extent as against the Unit Owner. A covenant on the part of each occupant to abide by the Condominium Documents, designating the Association as the Unit Owner's agent with the authority to terminate any lease agreement and evict the lessees in the event of breach of such covenant, shall be deemed to be included in every lease agreement, whether oral or written, and whether specifically expressed in such agreement or not.

13.7 Fees and Deposits for the Lease of Units. Whenever herein the Board's approval is required to allow the lease of a Unit, the Association may charge the Unit Owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law. No fee may be charged for approval of a renewal or extension of a lease with the same lessee. The Association may also require any security deposits that are authorized by the Condominium Act as amended from time to time which security deposit shall cover damage to the Common Elements or Association Property. Handling of the security deposit and claims against the security deposit shall be in accordance with the Condominium Act, as the same may be amended from time to time.

13.8 Unapproved Leases. Any lease of a Unit not approved pursuant to this Section 13 shall be void and unenforceable unless subsequently approved by the Board and shall constitute a valid basis for an eviction action.

14. TRANSFER OF OWNERSHIP OF UNITS: In order to maintain a community of congenial, financially responsible residents with the objectives of protecting the value of the Units, inhibiting

transiency, and facilitating the development of a stable, quiet community and peace of mind for all residents, the transfer of ownership of a Unit shall be subject to the following provisions:

14.1 Forms of Ownership:

(A) A Unit may be owned by one natural person who has qualified and been approved as provided in this Section 14.

(B) Co-Ownership. Co-ownership of Units is permitted. If the co-Unit Owners are to be other than husband and wife, the Board shall condition its approval upon the designation by the proposed new Unit Owners of one (1) natural person as "Primary Occupant". The use of the Unit by other persons shall be as if the Primary Occupant were the only actual Unit Owner. Any subsequent change in the Primary Occupant shall be treated as a transfer to ownership by sale or gift subject to the provisions of this Section 14. No more than one such change will be approved in any 12 month period.

(C) Ownership by Corporations, Partnerships or Trusts. A Unit may be owned in trust, or by a corporation, partnership or other entity which is not a natural person, if approved in the manner provided in this Section 14. The intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the Unit may be used as short-term transient accommodations for several individuals or families. The approval of a trust, or corporation, partnership or other entity as a Unit Owner shall be conditioned upon designation by the Unit Owner of not more than one (1) natural person to be the "Primary Occupant". The use of the Unit by other persons shall be as if the Primary Occupant were the only actual Unit Owner. Any subsequent change in the Primary Occupants shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section 14. No more than one such change will be approved in any 12 month period.

(D) Designation of Primary Occupant. If any Unit Owner fails to designate a Primary Occupant when required to do so, the Board may make the initial designation for the Unit Owner, and shall notify the Unit Owner in writing of its action. Any existing Unit Owners who own a Unit as of the date this (Amended and Restated) Declaration is recorded in the Public Records of Collier County, Florida, who are required to designate a Primary Occupant, shall make such designation with thirty (30) days of such recordation.

(E) Life Estate. A Unit may be subject to a life estate, either by operation of law or by a voluntary conveyance approved under Section 14.2 below. In that event, the life tenant shall be the only Member from such Unit, and occupancy of the Unit shall be as if the life tenant was the only Unit Owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy rights unless separately approved by the Association. The life tenant shall be liable for all Assessments and charges against the Unit. Any consent or approval required of Members may be given by the life tenant alone, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-Unit Owners for purposes of determining voting and occupancy rights under Section 14.1(B), above.

## 14.2 Transfers.

(A) Sale or Gift. No Unit Owner may transfer a Unit or any ownership interest in a Unit by sale or gift (including agreement for deed) without prior written approval of the Board.

(B) Devise or Inheritance. If any Unit Owner acquires his title by devise or inheritance, his right to occupy or use the Unit shall be subject to the approval of the Board under Section 14.3(A)(2) below, using the same criteria as for transfers. However, the approval shall not be denied to any devisee or heir who was the prior Unit Owner's lawful spouse at the time of death, or was related to the Unit Owner by blood, legal custody or adoption within the first degree. The transferee must notify the Board of his ownership and submit a certified copy of the instrument evidencing his ownership and such other information as the Board of Directors may reasonably require. The Board of Directors' right to approve occupancy or use of the Unit shall not permit the Board of Directors to disapprove the transferee's title to the Unit.

(C) Other Transfers. If any person acquires title in any manner not considered in the foregoing subsections, that person shall have no right to occupy or use the Unit before being approved by the Board of Directors under the procedures outlined in Section 14.3 below.

(D) Delegation of Power. To facilitate transfers proposed during times when many of its members are not in residence, the Board of Directors may by resolution delegate its approval powers to an ad hoc committee, which shall consist of at least three (3) Unit Owners, or to the President, Vice President or Treasurer, any of whom may be deemed a Vice President for purposes of executing a Certificate of Approval. The Board of Directors may not delegate its disapproval powers.

## 14.3 Procedures.

### (A) Notice to Association.

(1) Sale or Gift. A Unit Owner intending to make a sale or gift of his Unit or any interest therein shall give to the Board of Directors or its designee written notice of such intention at least thirty (30) days before the intended closing date, together with the name and address of the proposed purchaser or donee, a copy of the executed sales contract, if any, and such other information as the Board of Directors may reasonably require, including, without limitation, completed Association application form(s) from the proposed purchaser or donee. The Board of Directors may require an interview with the applicant(s). The applicant(s) must sign for having received copies of the Condominium Documents.

(2) Devise, Inheritance or Other Transfers. The transferee must notify the Board of Directors of his ownership and submit a certified copy of the instrument evidencing his ownership and such other information as the Board of Directors may reasonably require. The transferee shall have no occupancy or use rights until and unless approved by the Board of Directors, but may lease or sell the Unit following the procedures in Section 13 and this Section 14, respectively.



(3) Failure to Give Notice. If no notice is given, the Board of Directors, at its election may approve or disapprove at the time it learns of the transfer. If any Unit Owner fails to obtain the Association's approval prior to selling an interest in a Unit, such failure shall create a rebuttable presumption that the seller and the purchaser intend to violate the Condominium Documents, and shall constitute good cause for Association disapproval.

(B) Board of Directors Action. Within thirty (30) days after receipt of the required notice and all information or interview requested, or not later than sixty (60) days after the notice required by paragraph (A) above is received, whichever occurs first, the Board of Directors shall approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a Certificate of Approval executed by the President or Vice-President of the Association in recordable form and delivered to the transferee. If the Board of Directors neither approves nor disapproves within the time limits as set forth above, such failure to act shall be deemed the equivalent of approval and on demand the Board of Directors shall issue a Certificate of Approval to the transferee.

(C) Disapproval With Good Cause. Approval of the Association shall be withheld only for good cause if a majority of the entire Board of Directors so votes. The following, without limitation, may be deemed to constitute good cause for disapproval (to the extent reasonably relevant to the application):

(1) The person seeking approval has been convicted of a felony involving violence to persons or property, a felony involving possession or sale of a controlled substance, or a felony demonstrating dishonesty or moral turpitude.

(2) The person seeking approval has a record of financial irresponsibility, including without limitation, prior bankruptcies, foreclosures or bad debts;

(3) The application on its face gives the Board of Directors reasonable cause to believe that the applicant intends to conduct himself in a manner inconsistent with the Condominium Documents.

(4) The person seeking approval has evidenced an attitude of disregard for the Condominium Documents by his conduct in the Condominium as a lessee, Unit Owner or occupant of a Unit.

(5) The person seeking approval has a history of disruptive behavior or disregard for the rights or property of others.

(6) The person seeking approval has failed to provide the information or fees required to process the application in a timely manner, or provided false information during the application process.

(7) The transaction, if a sale or gift, was concluded by the parties without having sought and obtained the prior approval required herein.

(8) The transfer to the person seeking approval would result in that person owning more than two (2) units in the Condominium.

(D) Disapproval Without Good Cause. The Association's approval shall not be denied unless a majority of the entire Board of Directors so votes. If the Board of Directors disapproves without good cause, then within thirty (30) days after the Board of Directors meeting at which the disapproval took place, the Board of Directors shall deliver in writing to the Unit Owner the name of an approved purchaser (which may be the Association) who will purchase the Unit in cash at the same price, and upon substantially the same terms, as in the disapproved sales contract. If no sales contract was involved, or if the Association challenges the contract price as not being a good faith purchase price, the price to be paid shall be determined by agreement, or in the absence of agreement, shall be the fair market value determined by the arithmetic average of appraisals by two state-certified property appraisers, one selected by the Unit Owner and the other by the Association. The cost of the appraisals, and all other closing costs in cases where no sales contract is involved, shall be shared equally by the purchaser and selling Unit Owner, except that the purchaser shall pay for his own title insurance, and all costs of mortgage financing. Real property taxes and Assessments shall be prorated to the day of closing and the parties shall bear their own attorney's fees, if any. The closing shall take place not longer than sixty (60) days after the date of Board of Directors disapproval or thirty (30) days after determination of fair market value by appraisal, whichever occurs last. Failure or refusal to close by either party shall constitute a breach of contract and shall entitle the other party to seek specific performance or damages.

(E) If the Board of Directors fails to deliver the name of the approved purchaser within thirty (30) days as required above, then the original proposed purchaser shall be deemed to be approved, despite the Board of Directors' former disapproval, and upon demand a Certificate of Approval shall be issued.

14.4 Exception. The provisions of Sections 14.2 and 14.3 are not applicable to the acquisition of title by a first mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure, nor shall the Association's approval be required for the subsequent resale or lease of a Unit by such mortgagee of the Unit so acquired.

14.5 Unapproved Transfers. Any sale or transfer which is not approved, or which is disapproved pursuant to the terms of this Declaration shall be void unless subsequently approved in writing by the Board of Directors.

14.6 Fees and Deposits Related to the Sale of Units. Whenever herein the Board of Directors' approval is required to allow the sale or other transfer of an interest in a Unit, the Association may charge the Unit Owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law.

15. **INSURANCE:** In order to adequately protect the Association and its Members, insurance shall be carried and kept in force at all times in accordance with the following provisions:

15.1 Insurance Obligations as Between Association and Unit Owners. Every property insurance policy issued to the Association, for the purpose of protecting the Condominium, must provide primary coverage for:

(A) All portions of the Condominium Property and Association Property as originally installed or replacement of like kind and quality, in accordance with the original plans and specifications.

(B) All alterations or additions made to the Condominium Property or Association Property pursuant to Section 718.113(2) of the Condominium Act.

(C) The coverage provided to the Association must exclude all personal property within the Unit or Limited Common Elements, and floor, wall, and ceiling coverings, electrical fixtures, appliances, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of the Unit and serve only such Unit. Such property and any insurance thereupon is the responsibility of the Unit Owner.

(D) A Unit Owner's policy must conform to the requirements of Section 627.714, Florida Statutes, which provides:

(1) Coverage under a Unit Owner's residential property policy must include at least the amount of property loss assessment coverage required by Section 627.714, Florida Statutes for all Assessments made as a result of the same direct loss to the property, regardless of the number of Assessments, owned by all Members of the Association collectively, if such loss is of the type of loss covered by the Unit Owner's residential property insurance policy, to which a deductible of no more than the amount set forth in Section 627.714, Florida Statutes per direct property loss applies. If a deductible was or will be applied to other property loss sustained by the Unit Owner resulting from the same direct loss to the property, no deductible applies to the loss assessment coverage.

(2) The maximum amount of any Unit Owner's loss assessment coverage that can be assessed for any loss shall be an amount equal to that Unit Owner's loss assessment coverage limit in effect one day before the date of the occurrence. Any changes to the limits of a Unit Owner's coverage for loss assessments made on or after the day before the date of the occurrence are not applicable to such loss.

(3) Regardless of the number of Assessments, an insurer providing loss assessment coverage to a Unit Owner is not required to pay more than an amount equal to that Unit Owner's loss assessment coverage limit as a result of the same direct loss to property.

(4) Every individual Unit Owner's residential property policy must contain a provision stating that the coverage afforded by such policy is excess coverage over the amount recoverable under any other policy covering the same property.

(E) The Association shall use its best efforts to obtain and maintain insurance on the dock structures at the expense of the Unit Owners to which boat slips have been assigned, as described in Section 8.3 of this Declaration.

(F) All reconstruction work after a property loss must be undertaken by the Association except as otherwise authorized herein. A Unit Owner may undertake reconstruction work on portions of the Unit with the prior written consent of the Board of Directors. However, such work may be conditioned upon the approval of the repair methods, the qualifications of the proposed contractor, or the contract that is used for that purpose. A Unit Owner shall obtain all required governmental permits and approvals before commencing reconstruction.

(G) A Unit Owner is responsible for the cost of reconstruction of any portions of the Condominium Property for which the Unit Owner is required to carry property insurance, or for which the Unit Owner is responsible under subsection (I) below, and the cost of any such reconstruction work undertaken by the Association is chargeable to the Unit Owner and enforceable as an Assessment and may be collected in the manner provided for the collection of Assessments pursuant to Section 718.116 of the Condominium Act.

(H) Any portion of the Condominium Property that must be insured by the Association pursuant to Section 15.1(A)-(C) above against property loss which is damaged by an insurable event shall be reconstructed, repaired, or replaced as necessary by the Association as a Common Expense. In the absence of an insurable event, the Association or the Unit Owners shall be responsible for the reconstruction, repair, or replacement, as determined by the maintenance provisions of this Declaration. All property insurance deductibles and other damages in excess of property insurance coverage under the property insurance policies maintained by the Association are a Common Expense, except that:

(1) A Unit Owner is responsible for the costs of repair or replacement of any portion of the Condominium Property not paid by insurance proceeds, if such damage is caused by intentional conduct, negligence or failure to comply with the terms of this Declaration or the Rules and Regulations by a Unit Owner, the members of his or her Family, Occupants, Tenants, Guests, or invitees, without compromise of the subrogation rights of the insurer.

(2) The provisions of (1) above regarding the financial responsibility of a Unit Owner for the costs of repairing or replacing other portions of the Condominium Property also apply to the costs of repair or replacement of personal property of other Unit Owners or the Association, as well as other property, whether real or personal, which the Unit Owners are required to insure.

(3) To the extent the cost of repair or reconstruction for which the Unit Owner is responsible under this subsection (H) is reimbursed to the Association by insurance proceeds, and the Association has collected the cost of such repair or reconstruction from the Unit Owner, the Association shall reimburse the Unit Owner without the waiver of any rights of subrogation.

(4) The Association is not obligated to pay for reconstruction or repairs of property losses as a Common Expense if the property losses were known or should have been known to a Unit Owner and were not reported to the Association until after the insurance claim of the Association for that property was settled or resolved with finality, or denied because it was untimely filed.

(I) The Association is not obligated to pay for any reconstruction or repair expenses due to property loss to any improvements installed by a current or former Owner of the Unit or by the developer of the Condominium if the improvement benefits only the Unit for which it was installed and is not part of the standard improvements installed by the developer of the Condominium on all Units as part of original construction, whether or not such improvement is located within the Unit. This paragraph does not relieve any party of its obligations regarding recovery due under any insurance implemented specifically for such improvements.

15.2 Association Insurance: Duty and Authority to Obtain. The Association shall use its best efforts to obtain and maintain adequate property insurance to protect the Association, the Association Property, the Common Elements and the Condominium Property which it is required to carry by law and under the Condominium Documents, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the Unit Owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self-insure. Adequate property insurance shall be based on the replacement cost of the property to be insured as determined by an independent insurance appraisal or update of a prior appraisal. The replacement cost must be determined at least once every thirty-six (36) months. When determining the adequate amount of property insurance coverage, the Board of Directors may consider deductibles as determined pursuant to Section 718.111 of the Condominium Act. The deductibles must be consistent with industry standards and prevailing practice for communities of similar size and age, and having similar construction and facilities in the locale where the Condominium Property is situated. The deductibles may be based upon available funds, including reserve accounts, or predetermined Assessment authority at the time the insurance is obtained. The insurance required hereunder shall afford the following protection:

(A) Property. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by what is commonly known as a "Special Form" property coverage insurance contract.

(B) Flood. In amounts deemed adequate by the Board of Directors, as available through the National Flood Insurance Program.

(C) General Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner.

(D) Workers' Compensation. The Association shall maintain Workers' Compensation insurance on at least a minimum premium basis.

(E) Directors, Officers and Committee Members' Liability (Errors and Omissions).

(F) Fidelity Bond/Insurance.

15.3 Optional Coverage. The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and Unit Owners. Some of the more common options include:

(A) Additional flood insurance.

(B) Boiler and Machinery coverage.

(C) Broad Form Comprehensive General Liability Endorsement.

(D) Elevator Liability & Elevator Collision.

(E) Medical Payments.

(F) Leakage, seepage and wind-driven rain.

15.4 Description of Coverage A detailed summary of the coverages included in the master policies, and copies of the master policies, shall be available for inspection by Unit Owners or their authorized representatives upon request.

15.5 Insurance Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees as their interests may appear, and all proceeds shall be payable to the Association. The duty of the Association shall be to receive such proceeds as are paid, and to hold the same in trust, and disburse them for the purposes stated herein and for the benefit of the Unit Owners and their respective mortgagees in the following shares:

(A) Common Elements. Proceeds on account of damage to Common Elements shall be held in as many individual shares as there are Units, the shares of each Unit Owner being the same as his share in the Common Elements.

(B) Units. Proceeds on account of damage within the Units shall be held in undivided shares

based on the prorated amount of damage covered by insurance within each damaged Unit as a percentage of the total damage covered by insurance within all Units.

(C) Mortgage. If a mortgagee endorsement has been issued as to a Unit, the shares of the mortgagee and the Unit Owner shall be as their interests appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages which it may hold against Unit or Units, except to the extent that insurance proceeds exceed the actual cost of repair or restoration of the damaged building or buildings. Except as otherwise expressly provided, no mortgagee shall have any right to participate in determining whether improvements will be restored after casualty.

15.6 Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the Unit Owners in the following manner:

(A) Cost of Protecting and Preserving the Property. If a person other than the person responsible for repair and reconstruction has in good faith advanced funds to preserve or protect the property to prevent further damage or deterioration, the funds so advanced shall first be repaid, with interest if required.

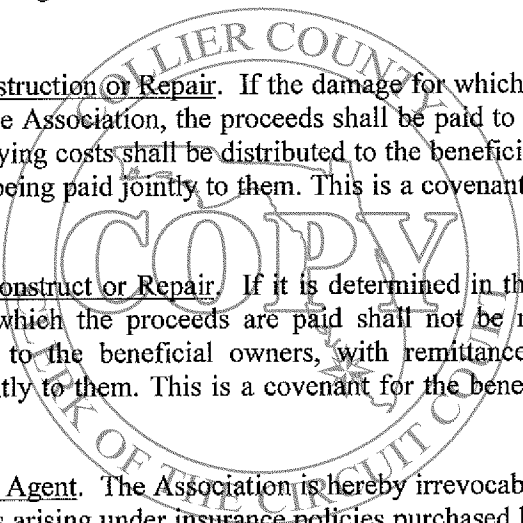
(B) Cost of Reconstruction or Repair. If the damage for which the proceeds are paid is to be reconstructed or repaired by the Association, the proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying costs shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being paid jointly to them. This is a covenant for the benefit of mortgagees and may be enforced by them.

(C) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided herein that the damages for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the beneficial owners, with remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of mortgagees and may be enforced by them.

15.7 Association as Agent. The Association is hereby irrevocably appointed as agent for each Unit Owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the Condominium Property.

16. RECONSTRUCTION OR REPAIR AFTER CASUALTY: If any part of the Condominium Property is damaged by casualty, whether and how it shall be reconstructed or repaired shall be determined as follows:

16.1 Damage to Units. Where loss or damage occurs within one or more Units, any Association insurance proceeds received on account of the loss or damage shall be used by the



Association to reconstruct and repair those improvements in the Unit(s) that it is required to insure pursuant to the Condominium Act. Any insurance proceeds received by the Unit Owner(s) shall be used to repair and reconstruct those improvements in the Unit(s) with respect to which the Unit Owner(s) is obligated to insure pursuant to the Condominium Act.

16.2 Damage to Common Elements-Less than "Very Substantial". Where loss or damage occurs to the Common Elements, but the loss is less than "very substantial", as hereinafter defined, it shall be mandatory for the Association to repair, restore and rebuild the damage caused by the loss, and the following procedures shall apply:

(A) The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration, and shall negotiate and contract for repair and reconstruction.

(B) If the proceeds of insurance and available reserves are insufficient to pay for the cost of repair and reconstruction of the Common Elements, the Association shall promptly, upon determination of the deficiency, levy a Special Assessment against all Unit Owners in proportion to their shares in the Common Elements for the deficiency. Such Special Assessments need not be approved by the Unit Owners. The proceeds from the Special Assessment shall be added to the funds available for repair and restoration of the property.

16.3 "Very Substantial" Damage. As used in the Declaration, the term "very substantial" damage shall mean loss or damage whereby at least three-fourths (3/4) of the total number of Units cannot reasonably be expected to be rendered habitable within one hundred eighty (180) days of the casualty. Should such "very substantial" damage occur then:

(A) The Board of Directors and the Officers, or any of them, are authorized, regardless of any other provision of this Declaration, to take such action as may reasonably appear to be necessary under emergency conditions. This authority includes actions to protect life and property, to evacuate or shore-up structures and salvage property, to engage security to protect against looting or other criminal acts, and to alter the Condominium Property or Association Property as might be reasonable under the circumstances to protect the Condominium Property or Association Property from further damage or deterioration. This authority includes the authority to expend any and all available Association funds, including reserves and to specially assess the Members.

(B) The Board of Directors shall endeavor to obtain comprehensive, detailed estimates of the cost of repair and restoration.

(C) A meeting of the Members shall be held not later than one hundred twenty (120) days after the Board of Directors has obtained the estimates, to determine the opinion of the membership with reference to rebuilding or termination of the Condominium, subject to the following:



(1) If the insurance proceeds, reserves and other Association funds available for the restoration and repairs that are the Association's responsibility are sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can be accomplished without levying a Special Assessment that exceeds fifteen percent (15%) of the total annual budget (including reserves) for the condominium in the year in which the casualty occurred, the Condominium shall be repaired and reconstructed unless at least three-quarters (3/4) of the Voting Interests vote for termination, in which case the Condominium shall be terminated.

(2) If upon the advice of legal counsel and engineers, it appears unlikely that the then applicable zoning or other regulatory laws will allow reconstruction of the same number and general types of Units, or if the insurance proceeds, reserves and other association funds available for restoration and repair are not sufficient to cover the estimated cost thereof, and it is reasonably anticipated that the repairs and reconstruction can be accomplished only by levying Special Assessments exceeding fifteen percent (15%) of the total annual budget for the Condominium (including reserves) in the fiscal year in which the casualty occurred, the Condominium shall be terminated, and the property removed from the provisions of the Condominium Act, unless at least three-quarters (3/4) of the Voting Interests vote against termination. If the requisite number of Unit Owners vote against termination, the Board of Directors shall levy such Assessments as are necessary, and shall proceed with the necessary repairs and restoration. The proceeds from the Special Assessments shall be added to the funds available for repair and reconstruction.

(D) If any dispute shall arise as to whether "very substantial" damage has occurred, or as to the amount of Special Assessments required, a determination by a majority of the entire Board of Directors shall be conclusive, and shall be binding upon all persons.

16.4 Application of Insurance Proceeds. It shall be presumed that the first monies disbursed for repair and restoration are from insurance proceeds; if there is a balance left in the funds held by the Association after the payment of all costs of repair and restoration, such balance shall be distributed to the Unit Owners, except as otherwise provided in Section 15.6(C) above.

16.5 Equitable Relief. In the event of damage to the Common Elements which renders any Unit uninhabitable, and the damage is not repaired, reconstructed, or rebuilt within a reasonable period of time, the Owner of the uninhabitable Unit may petition a court for equitable relief, which may include a termination of the Condominium and a partition.

16.6 Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original building (with allowance for changes in building codes that apply to any such reconstruction or repairs and without impairing the Board of Directors' ability to substitute superior building materials, components or design), or according to different plans and specifications approved by the Board of Directors, by at least two-thirds (2/3) of the Voting Interests, and by the Primary Institutional Mortgagee, if any. Such approvals may not be

unreasonably withheld. However, no change in plans and specifications shall materially reduce the interior floor space of any Unit without the consent of the Unit Owner and his Institutional Mortgagee, if any.

17. CONDEMNATION:

17.1 Deposit of Awards with Association. The taking of all or any part of the Condominium Property by condemnation or eminent domain shall be deemed to be a casualty to the portion taken and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty. Even though the awards for the taking of Common Elements may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Association; and if any fail to do so, a special charge shall be made against a defaulting Unit Owner in the amount of his award, or the amount of that award shall be set off against any sums payable to that Unit Owner.

17.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be determined in the same manner provided for determining whether damaged property will be reconstructed and repaired after a casualty.

17.3 Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of all awards and Special Assessments will be deemed to be Condominium Property and shall be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, but the size of the Condominium will be reduced, the Owners of condemned Units, if any, will be made whole, and any property damaged by the taking will be made usable in the manner provided below. Proceeds of awards and Special Assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursements of funds after a casualty.

17.4 Association as Agent. The Association is hereby irrevocably appointed as each Unit Owner's attorney-in-fact for purposes of negotiating or litigating with the condemning authority for the purposes of realizing just compensation.

17.5 Units Reduced but Habitable. If the condemnation reduces the size of a Unit and the remaining portion of the Unit can be made habitable, the awards for the taking of a portion of that Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(A) Restoration of Unit. The Unit shall be made habitable. If the cost of restoration exceeds the amount of the award, the additional funds required shall be paid by the Owner of the Unit.

(B) Distribution of Surplus. The balance of the award, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Unit Owner and mortgagees.

(C) Adjustment of Shares in Common Elements. If the floor area of a unit is reduced by the taking, the number representing the share in the Common Elements appurtenant to the Unit shall be reduced in the proportion by which the floor area of the Unit is reduced by the taking, and then the shares of all Unit Owners in the Common Elements shall be restated as percentages of the total of the numbers representing their original shares as reduced by the taking.

17.6 Unit Made Not Habitable. If the condemnation is of an entire Unit or reduces the size of a Unit so that it cannot be made habitable, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(A) Payment of Award. The fair market value of the Unit immediately prior to the taking shall be paid to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Unit Owner and mortgagee(s).

(B) Addition to Common Elements. If possible and practical, the remaining portion of the Unit shall become a part of the Common Elements and shall be placed in condition for use by all Unit Owners in a manner approved by the Board of Directors.

(C) Adjustment of Shares in Common Elements. The shares in the Common Elements appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the ownership of the Common Elements among the reduced number of Units. This shall be done by restating the shares of the continuing Units in the Common Elements as percentages of the total of the numbers representing the shares of these as they existed prior to the adjustment.

(D) Assessments. If the amount of the award for the taking is not sufficient to pay the fair market value of the condemned Unit to the Unit Owner and to condition the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for those purposes shall be raised by Special Assessment against Units that will continue as Units after the changes in the Condominium affected by the taking. The Assessments shall be made in proportion to the shares of those Units in the Common Elements after the changes affected by the taking.

(E) Valuation. If the fair market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and the Association within thirty (30) days after notice by either party, the value shall be determined by appraisal in accordance with the following. The Unit Owner, the first mortgagee, if any, and the Association shall each appoint one certified real property appraiser, who shall appraise the Unit and determine the fair market value by computing the arithmetic average of their appraisals of the Unit. A judgment of specific performance upon the fair market value calculated in this way may be entered in any court of competent jurisdiction. Each party shall bear the cost of his own appraiser.

17.7 Taking of Common Elements. Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in a manner approved by the Board of

Directors. The balance of such awards, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustment of these shares on account of the condemnation, if any, or may be spent or retained in the Association's accounts in the Board of Directors discretion. If a Unit is mortgaged, the remittance shall be paid jointly to the Owner and mortgagee(s) of the Unit.

17.8 Amendment of Declaration. Any changes in Units and in the Common Elements, in the ownership of the Common Elements, and in the sharing of Common Expenses that are necessitated by condemnation shall be accomplished by amending this Declaration in accordance with Sections 17.5 and 17.6 above. Such amendment must be approved only by the Owners of a majority of the Units. The consent of lien holders is not required for any such amendment.

18. TERMINATION: The Condominium may be terminated in the following manner:

18.1 Destruction. If it is determined in the manner provided in Section 16.3 that the building shall not be reconstructed because of "very substantial" damage, the Condominium will be terminated without agreement.

18.2 Termination Because of Economic Waste or Impossibility. The Condominium may be terminated at any time by a plan of termination approved by at least sixty-seven percent (67%) of the Voting Interests when:

(A) The total estimated cost of construction or repairs necessary to construct the intended improvements or restore the improvements to their former condition or bring them into compliance with applicable laws or regulations exceeds the combined fair market value of the Units in the Condominium after completion of the construction or repairs; or

(B) It becomes impossible to operate or reconstruct the Condominium to its prior physical configuration because of land use laws or regulations.

18.3 Optional Termination. The Condominium may be terminated for all or a portion of the Condominium Property pursuant to a plan of termination approved by the Division of Florida Condominiums, Timeshares and Mobile Homes ("Division"). Before the Association submits the plan of termination to the Division, the plan of termination must be approved by at least eighty (80%) of the Voting Interests if not more than five percent (5%) of the Voting Interests have rejected the plan of termination by negative vote or by providing written objections thereto. The approval of a plan of termination by the holder of a recorded mortgage lien is not required unless the plan of termination will result in less than the full satisfaction of the mortgage lien affecting the Condominium Parcel. If such mortgagee approval is required and not given, a holder of a recorded mortgage lien who objects to the plan of termination may contest the plan as provided in the Condominium Act. At the time of sale, the lien shall be transferred to the proportionate share of the proceeds assigned to the Condominium Parcel in the plan of termination or as subsequently modified by the Circuit Court. All Voting Interests must be included for the purpose of considering a plan of termination. A Voting Interest may not be suspended

for any reason when voting on an optional termination. If five percent (5%) or more of the Voting Interests reject a plan of optional termination, a subsequent plan of optional termination may not be considered for twenty-four (24) months after the date of rejection. All Voting Interests must be included for the purpose of considering a plan of optional termination. A Voting Interest may not be suspended for any reason when voting on an optional termination.

18.4 Plan of Termination. The plan of termination must be a written document executed in the same manner as a deed by Unit Owners having the requisite percentage of Voting Interests to approve the plan and by the termination trustee. A copy of the proposed plan of termination shall be given to all Unit Owners, in the same manner as for notice of an annual meeting, at least fourteen (14) days prior to the meeting at which the plan of termination is to be voted upon or prior to or simultaneously with the distribution of the solicitation seeking execution of the plan of termination or written consent to or joinder in the plan. A Unit Owner may document assent to the plan by executing the plan or by consent to or joinder in the plan in the manner of a deed. A plan of termination and the consents or joinders of Unit Owners must be recorded in the Public Records of Collier County, Florida. The plan is effective only upon recordation or at a later date specified in the plan. A plan of termination is not an amendment subject to Section 718.110(4) of the Condominium Act. If the plan of termination fails to receive the required approval, the plan shall not be recorded and a new attempt to terminate the Condominium may not be proposed at a meeting or by solicitation for joinder and consent for eighteen (18) months after the date that such failed plan of termination was first given to all Unit Owners. If the plan of termination is voted on at a meeting of the Unit Owners, any Unit Owner desiring to reject the plan must do so by either voting to reject the plan in person or by proxy, or by delivering a written objection to the Association before or at the meeting. If the plan of termination is approved by written consent and joinder without a meeting of the Unit Owners, any Unit Owner desiring to object to the plan must deliver a written objection to the Association within twenty (20) days after the date that the Association notifies the non-consenting Unit Owners that the plan of termination has been approved by written action in lieu of a Unit Owner meeting.

The Division shall examine the plan to determine its procedural sufficiency and, within forty-five (45) days after receipt of the initial filing, the Division shall notify the Association by mail of any procedural deficiencies or that the filing is accepted. If the notice is not given within forty-five (45) days after the receipt of the filing, the plan is presumed to be accepted. If the Division determines that the conditions required by Section 718.117 of the Condominium Act have been met and that the plan complies with the procedural requirements of Section 718.117 of the Condominium Act, the Division shall authorize the termination, and the termination may proceed.

18.5 Plan of Termination; Required Provisions. The plan of termination must specify:

- (A) The name, address, and powers of the termination trustee.
- (B) A date after which the plan of termination is void if it has not been recorded.

(C) The interests of the respective Unit Owners in the Association Property, Common Surplus, and other assets of the Association, which shall be the same as the respective interests of the Unit Owners in the Common Elements immediately before the termination.

(D) The interests of the respective Unit Owners in any proceeds from the sale of the Condominium Property. The plan of termination may apportion those proceeds pursuant to any method prescribed in Section 18.7. If, pursuant to the plan of termination, Condominium Property or real property owned by the Association is to be sold following termination, the plan must provide for the sale and may establish any minimum sale terms.

(E) Any interests of the respective Unit Owners in insurance proceeds or condemnation proceeds that are not used for repair or reconstruction at the time of termination.

18.6 Plan of Termination; Optional Provisions; Conditional Termination.

(A) Unless the plan of termination expressly authorizes a Unit Owner or other person to retain the exclusive right to possess that portion of the real estate that formerly constituted the Unit after termination or to use the Common Elements of the Condominium after termination, all such rights in the Unit and Common Elements automatically terminate on the effective date of the termination. Unless the plan expressly provides otherwise, all leases, occupancy agreements, subleases, licenses or other agreements for the use or occupancy of any Unit or Common Elements of the Condominium automatically terminate on the effective date of the termination. If the plan expressly authorizes a Unit Owner or other person to retain exclusive right of possession for that portion of the real estate that formerly constituted the Unit or to use the Common Elements of the Condominium after termination, the plan must specify the conditions of possession.

(B) In a conditional termination, the plan must specify the conditions for termination. A conditional plan does not vest title in the termination trustee until the plan and a certificate executed by the Association with the formalities of a deed, confirming that the conditions in the conditional plan have been satisfied or waived by the requisite percentage of the Voting Interests, have been recorded.

(C) Unless otherwise provided in the plan of termination, at any time before the sale of the Condominium Property, a plan may be withdrawn or modified by the affirmative vote or written agreement of at least the same percentage of Voting Interests in the Condominium as that which was required for the initial approval of the plan.

(D) Upon the discovery of a scrivener's error in the plan of termination, the termination trustee may record an amended plan or an amendment to the plan for the purpose of correcting the error, and the amended plan or amendment to the plan must be executed by the termination trustee in the same manner as required for the execution of a deed.

18.7 Allocation of Proceeds of Sale of Condominium Property.

(A) It shall be presumed that the Common Elements have no independent value but rather that their value is incorporated into the valuation of the Units.

(B) The portion of proceeds allocated to the Units shall be apportioned among the individual Units. The apportionment is deemed fair and reasonable if it is determined by any of the following methods:

(1) The respective values of the Units based on the fair-market values of the Units immediately before the termination, as determined by one or more independent appraisers selected by the Association or termination trustee;

(2) The respective values of the Units based on the most recent market value of the Units before the termination, as provided in the Collier County Property Appraiser's records; or

(3) The respective interests of the Units in the Common Elements specified in this Declaration immediately before the termination.

(C) The methods of apportionment in (B) above do not prohibit any other method of apportioning the proceeds of sale allocated to the Units or by any other method of valuing the Units agreed upon in the plan of termination. Any portion of the proceeds separately allocated to the Common Elements shall be apportioned among the Units based upon their respective interests in the Common Elements.

(D) Liens that encumber a Unit shall, unless otherwise provided in the plan of termination, be transferred to the proceeds of sale of the Condominium Property and the proceeds of sale or other distribution of Association Property, Common Surplus, or other Association assets attributable to such Unit in their same priority. The proceeds of any sale of Condominium Property pursuant to a plan of termination may not be deemed to be Common Surplus or Association Property. The holder of a lien that encumbers a Unit at the time of recording the plan must, within 30 days after the written request from the termination trustee, deliver a statement to the termination trustee confirming the outstanding amount of any obligations of the Unit Owner secured by the lien.

(E) The Termination Trustee may set-off against, and reduce the share of, the termination proceeds allocated to a Unit by the amounts set forth in Section 718.117(12)(e) of the Condominium Act.

18.8 Termination Trustee. The Association shall serve as termination trustee unless another person is appointed in the plan of termination. If the Association is unable, unwilling, or fails to act as trustee, any Unit Owner may petition the Circuit Court to appoint a trustee. Upon the date of the recording or at a later date specified in the plan, title to the Condominium Property vests in the trustee. Unless

prohibited by the plan, the termination trustee shall be vested with the powers given to the Board of Directors pursuant to this Declaration, the Bylaws, and the Condominium Act. If the Association is not the termination trustee, the trustee's powers shall be coextensive with those of the Association to the extent not prohibited in the plan of termination or the order of appointment. If the Association is not the termination trustee, the Association shall transfer any Association Property to the trustee. If the Association is dissolved, the trustee shall also have such other powers necessary to conclude the affairs of the Association.

18.9 Title Vested in Termination Trustee. If termination is pursuant to a plan of termination under Sections 18.2 or 18.3, the Unit Owners' rights and title as tenants in common in undivided interests in the Condominium Property vest in the termination trustee when the plan is recorded or at a later date specified in the plan. The Unit Owners thereafter become the beneficiaries of the proceeds realized from the plan of termination. The termination trustee may deal with the Condominium Property or any interest therein if the plan confers on the trustee the authority to protect, conserve, manage, sell, or dispose of the Condominium Property. The trustee, on behalf of the Unit Owners, may contract for the sale of real property, but the contract is not binding on the Unit Owners until the plan is approved pursuant to Sections 18.2 or 18.3.

18.10 Powers in Connection with Termination. The approval of the plan of termination does not terminate the Association. It shall continue in existence following approval of the plan of termination with all powers and duties it had before approval of the plan. Notwithstanding any provision to the contrary in this Declaration or the Bylaws, after approval of the plan the Board of Directors shall:

- (A) Employ Directors, agents, attorneys, and other professionals to liquidate or conclude its affairs.
- (B) Conduct the affairs of the Association as necessary for the liquidation or termination.
- (C) Carry out contracts and collect, pay, and settle debts and claims for and against the Association.
- (D) Defend suits brought against the Association.
- (E) Sue in the name of the Association for all sums due or owed to the Association or to recover any of its property.
- (F) Perform any act necessary to maintain, repair, or demolish unsafe or uninhabitable improvements or other Condominium Property in compliance with applicable codes.
- (G) Sell at public or private sale or exchange, convey, or otherwise dispose of assets of the



Association for an amount deemed to be in the best interests of the Association, and execute bills of sale and deeds of conveyance in the name of the Association.

(H) Collect and receive rents, profits, accounts receivable, income, Assessments, Special Assessments, or insurance proceeds for the Association.

(I) Contract and do anything in the name of the Association which is proper or convenient to terminate the affairs of the Association.

18.11 Natural Disasters. If, after a natural disaster, the identity of the Directors or their right to hold office is in doubt, if they are deceased or unable to act, if they fail or refuse to act, or if they cannot be located, any interested person may petition the Circuit Court to determine the identity of the Directors or, if found to be in the best interests of the Unit Owners, to appoint a receiver to conclude the affairs of the Association after a hearing following notice to such persons as the Circuit Court directs. Lienholders shall be given notice of the petition and have the right to propose persons for the consideration by the Circuit Court as receiver. If a receiver is appointed, the Circuit Court shall direct the receiver to provide to all Unit Owners written notice of his or her appointment as receiver. Such notice shall be mailed or delivered within 10 days after the appointment. Notice by mail to a Unit Owner shall be sent to the address used by the Collier County Property Appraiser for notice to the Unit Owner. The receiver shall have all powers given to the Board of Directors pursuant to this Declaration, the Bylaws, and Section 718.117(6) of the Condominium Act, and any other powers that are necessary to conclude the affairs of the Association and are set forth in the order of appointment. The appointment of the receiver is subject to the bonding requirements of such order. The order shall also provide for the payment of a reasonable fee to the receiver from the sources identified in the order, which may include rents, profits, incomes, Assessments, or Special Assessments collected from the Condominium Property.

18.12 Reports and Replacement of Receiver The Association, receiver, or termination trustee shall prepare reports each quarter following the approval of the plan of termination setting forth the status and progress of the termination, costs and fees incurred, the date the termination is expected to be completed, and the current financial condition of the Association, receivership, or trusteeship and provide copies of the report by regular mail to the Unit Owners and lienors at the mailing address provided to the Association by the Unit Owners and the lienors. The Unit Owners of an Association in termination may recall or remove members of the Board of Directors with or without cause at any time as provided in Section 718.112(2)(j) of the Condominium Act. The lienors of an Association in termination representing at least fifty percent (50%) of the outstanding amount of liens may petition the Circuit Court for the appointment of a termination trustee, which shall be granted upon good cause shown.

18.13 Notice. Within thirty (30) days after a plan of termination has been recorded, the termination trustee shall deliver by certified mail, return receipt requested, notice to all Unit Owners, lienors of the Condominium Property, and lienors of all Units at their last known addresses that a plan of termination has been recorded. The notice must include the book and page number of the Public Records

of Collier County, Florida in which the plan was recorded, notice that a copy of the plan shall be furnished upon written request, and notice that the Unit Owner or lienor has the right to contest the fairness of the plan. The trustee, within ninety (90) days after the effective date of the plan, shall provide to the Division a certified copy of the recorded plan, the date the plan was recorded, and the recording information for the plan of termination .

18.14 Right to Contest. A Unit Owner or lienor may contest a plan of termination by initiating a petition for mandatory nonbinding arbitration pursuant to Section 718.1255 of the Condominium Act, within ninety (90) days after the date the plan is recorded. A Unit Owner or lienor may only contest the fairness and reasonableness of the apportionment of proceeds from the sale among the Unit Owners, or that the required vote to approve the plan was not obtained. A Unit Owner or lienor who does not contest the plan within the ninety (90) day period is barred from asserting or prosecuting a claim against the Association, the termination trustee, any Unit Owner, or any successor in interest to the Condominium Property. In an action contesting a plan of termination, the person contesting the plan has the burden of pleading and proving that the apportionment of the proceeds from the sale among the Unit Owners was not fair and reasonable or that the required vote was not obtained. The apportionment of sale proceeds is presumed fair and reasonable if it was determined pursuant to the methods prescribed in Section 718.117(12) of the Condominium Act. The arbitrator shall determine the rights and interests of the parties in the apportionment of the sale proceeds. If the arbitrator determines that the apportionment of sale proceeds is not fair and reasonable, the arbitrator may void the plan or may modify the plan to apportion the proceeds in a fair and reasonable manner pursuant to Section 718.117 of the Condominium Act based upon the proceedings and order the modified plan of termination to be implemented. If the arbitrator determines that the plan was not properly approved, or that the procedures to adopt the plan were not properly followed, the arbitrator may void the plan or grant other relief it deems just and proper. The arbitrator shall automatically void the plan upon a finding that any of the disclosures required by the Condominium Act are omitted, misleading, incomplete or inaccurate. Any challenge to a plan, other than a challenge that the required vote was not obtained, does not affect title to the Condominium Property or the vesting of the Condominium Property in the termination trustee, but shall only be a claim against the proceeds of the plan. In any such action, the prevailing party shall recover reasonable attorney's fees and costs.

18.15 Distribution.

(A) Following termination of the Condominium, the Condominium Property, Association Property, Common Surplus, and other assets of the Association shall be held by the termination trustee, as trustee for Unit Owners and holders of liens on the Units, in their order of priority.

(B) Not less than thirty (30) days before the first distribution, the termination trustee shall deliver by certified mail, return receipt requested, a notice of the estimated distribution to all Unit Owners, lienors of the Condominium Property, and lienors of each Unit at their last known addresses stating a good faith estimate of the amount of the distributions to each class and the procedures and

deadline for notifying the termination trustee of any objections to the amount. The deadline must be at least fifteen (15) days after the date the notice was mailed. The notice may be sent with or after the notice required by Section 718.117(15) of the Condominium Act. If a Unit Owner or lienor files a timely objection with the termination trustee, the trustee need not distribute the funds and property allocated to the respective Unit Owner or lienor until the trustee has had a reasonable time to determine the validity of the adverse claim. In the alternative, the trustee may interplead the Unit Owner, lienor, and any other person claiming an interest in the Unit and deposit the funds allocated to the Unit in the Circuit Court registry, at which time the Condominium Property, Association Property, Common Surplus, and other assets of the Association are free of all claims and liens of the parties to the suit. In an interpleader action, the trustee and prevailing party may recover reasonable attorney's fees and costs.

(C) The proceeds from any sale of Condominium Property or Association Property and any remaining Condominium Property or Association Property, Common Surplus, and other assets shall be distributed in the following priority:

(1) To pay the reasonable termination trustee's fees and costs and accounting fees and costs;

(2) To lienholders of liens recorded prior to the recording of the original Declaration;

(3) To purchase-money lienholders on Units to the extent necessary to satisfy their liens; however, the distribution may not exceed a Unit Owner's share of the proceeds.

(4) To lienholders of liens of the Association which have been consented to under Section 718.121(1) of the Condominium Act.

(5) To creditors of the Association, as their interests appear.

(6) To Unit Owners, the proceeds of any sale of Condominium Property subject to satisfaction of liens on each Unit in their order of priority, in shares specified in the plan of termination, unless objected to by a Unit Owner or lienor as provided in paragraph (B) above.

(7) To Unit Owners, the remaining Condominium Property, subject to satisfaction of liens on each Unit in their order of priority, in shares specified in the plan of termination, unless objected to by a Unit Owner or a lienor as provided in paragraph (B) above.

(8) To Unit Owners, the proceeds of any sale of Association Property, the remaining Association Property, Common Surplus, and other assets of the Association, subject to satisfaction of liens on each Unit in their order of priority, in shares specified in the plan of termination, unless objected to by a Unit Owner or a lienor as provided in paragraph (B) above.

(D) After determining that all known debts and liabilities of the Association have been paid or adequately provided for, the termination trustee shall distribute the remaining assets pursuant to the plan of termination. If the termination is by Circuit Court proceeding or subject to Circuit Court supervision, the distribution may not be made until any period for the presentation of claims ordered by the Circuit Court has elapsed.

(E) Assets held by the Association upon a valid condition requiring return, transfer, or conveyance, which condition has occurred or will occur, shall be returned, transferred, or conveyed in accordance with the condition. The remaining Association assets shall be distributed pursuant to paragraph (C) above.

(F) Distribution may be made in money, property, or securities and in installments or as a lump sum, if it can be done fairly and ratably and in conformity with the plan of termination. Distribution shall be made as soon as is reasonably consistent with the beneficial liquidation of the assets.

18.16 Association Status. The termination of the Condominium does not change the corporate status of the Association. The Association shall continue to exist to conclude its affairs, prosecute and defend actions by or against it, collect and discharge obligations, dispose of and convey its property, and collect and divide its assets, but not to act except as necessary to conclude its affairs.

18.17 Creation of Another Condominium. The termination of the Condominium does not bar the filing of a declaration of condominium or an amended and restated declaration of condominium by the termination trustee affecting any portion of the same property.

19. ENFORCEMENT:

19.1 Duty to Comply; Right to Sue. Each Unit Owner, his Tenants, Guests and invitees, and the Association is governed by and must comply with the provisions of the Condominium Act and the Condominium Documents, which shall be deemed expressly incorporated into any lease of a Unit. Actions for damages or for injunctive relief, or both, for failure to comply may be brought by the Association or by a Unit Owner against:

- (A) The Association;
- (B) A Unit Owner;
- (C) Anyone who occupies or is a Tenant, Guest or invitee in a Unit; or
- (D) Any member of the Board of Directors who willfully and knowingly fails to comply with these provisions.

19.2 Waiver of Rights. The failure of the Association or any Member to enforce a right, provision, covenant or condition which may be granted by the Condominium Documents shall not constitute a waiver of the right of the Association or Member to enforce such right, provision, covenant or condition in the future. A provision of the Condominium Act may not be waived by a Unit Owner if the waiver would adversely affect the rights of the Unit Owner or defeat the purpose of the provision, except that Unit Owners or Directors may waive notice of specific meetings as provided in the Bylaws. Actions arising under this Section 19 or the Condominium Act may not be deemed to be actions for specific performance.

19.3 Attorney's Fees. In any legal proceeding arising out of an alleged failure of any party described in Section 19.1 above to comply with the requirements of the Condominium Act and/or the Condominium Documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such attorney's fees as may be awarded by the court.

19.4 No Election of Remedies. All rights, remedies and privileges granted to the Association or Unit Owners under the law and the Condominium Documents shall be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising any other rights, remedies, or privileges that may be available.

## 20. RIGHTS OF MORTGAGEES:

20.1 Approvals. Written consent of the Institutional Mortgagee of a Unit shall be required for any amendment to the Declaration which would decrease the Unit's share of ownership of the Common Elements, except as otherwise provided in Sections 17.6(C) and 17.8.

20.2 Notice of Casualty or Condemnation. In the event of condemnation, eminent domain proceeding, or very substantial damage to, or destruction of, any Unit or any part of the Common Elements, the record holder of any first mortgage on an affected Unit shall be entitled to notice.

20.3 Mortgage Foreclosure. If a first mortgagee acquires title to a Condominium Parcel as a result of foreclosure of its first mortgage, or as the result of a deed given in lieu of foreclosure, the first mortgagee shall be liable for the share of Common Expenses or Assessments attributable to the Condominium Parcel, which came due prior to the first mortgagee's acquisition of title, to the fullest extent provided by the Condominium Act, as the same may be amended from time to time. Any unpaid share of Common Expenses for which such acquirer is exempt from liability becomes a Common Expense collectible from all Unit Owners. No party who acquires title to a Condominium Parcel by foreclosure, or by a deed in lieu of foreclosure, may be excused from the payment of any Assessments coming due during the period of such ownership.

20.4 Redemption. If proceedings are instituted to foreclose any mortgage or lien on any Unit, the Association, on behalf of one or more Unit Owners and with the permission of the mortgagee, may redeem the mortgage or lien for the amount due thereon and be thereby subrogated to all of the

mortgagee's or lienor's rights of action, or the Association may purchase the Unit at the foreclosure sale. Any mortgagee shall have an unrestricted, absolute right to accept title to the Unit in settlement and satisfaction of the mortgage or to foreclose its mortgage in accordance with its terms, and to bid upon the Unit at the foreclosure sale.

20.5 Right to Inspect Books. The Association shall make available to Institutional Mortgagees requesting same current copies of the Condominium Documents and the books, records and financial statements of the Association. "Available" shall mean ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies shall be provided at the expense of the person requesting them.

20.6 Financial Statement. Any Institutional Mortgagee is entitled, upon written request, to a copy of the financial statement of the Association for the immediately preceding fiscal year.

20.7 Lender's Notices. Upon written request to the Association, any Institutional Mortgagee shall be entitled to timely written notice of:

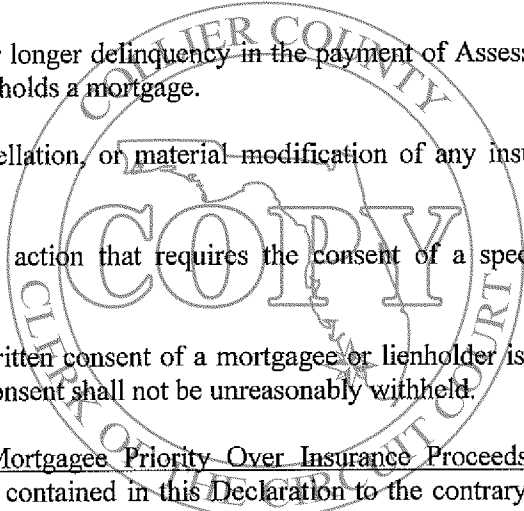
- A. Any 60 day or longer delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds a mortgage.
- B. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- C. Any proposed action that requires the consent of a specified percentage of mortgage holders.

Whenever the prior written consent of a mortgagee or lienholder is required in the Condominium Documents, the prior written consent shall not be unreasonably withheld.

20.8 Institutional Mortgagee Priority Over Insurance Proceeds and Condemnation Awards. Notwithstanding any language contained in this Declaration to the contrary, no Unit Owner and no other party shall have priority over any rights of any Institutional Mortgagee pursuant to its Institutional Mortgage in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or takings of Units and/or any portion of the Common Elements and no amendment to this Section 20.9 shall be made without the prior written consent of all Institutional Mortgagees.

20.9 Valid Lien. No breach of any of the covenants, conditions and restrictions contained in this Declaration, nor the enforcement of any lien provisions herein, shall render invalid the lien of an Institutional Mortgagee on any Unit.

21. AMENDMENT OF DECLARATION: Amendments to this Declaration shall be proposed and



adopted in the following manner:

21.1 Proposal. Amendments to this Declaration may be proposed by the Board of Directors, or by written petition to the Board of Directors signed by the Owners of at least one-fourth (1/4) of the Units.

21.2 Procedure. Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the Members not later than the next annual meeting for which proper notice can still be given. The text of the proposed amendment shall accompany the notice of meeting or a notice that a vote will occur by written consents in lieu of a meeting. A proposed amendment shall contain the full text of the language with proposed new words in the text underlined and words to be deleted lined through with hyphens, unless the proposed change is so extensive that this procedure would hinder rather than assist the understanding of the proposed amendment. In the latter case, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Declaration of Condominium. See Declaration of Condominium, Section \_\_\_ for present text."

21.3 Vote Required. Except as otherwise provided by law, or by specific provision of the Condominium Documents, this Declaration may be amended if the proposed amendment is approved by at least two-thirds (2/3) of the Voting Interests present (in person or by proxy) and voting at any annual or special meeting at which a quorum has been established. This Declaration shall be deemed amended by virtue of revisions to statutes and regulations which control over conflicting provisions of this Declaration. The Board of Directors shall have the authority to amend this Declaration in order to conform the provisions thereof with such revisions to statutes and regulations. In addition, the Board of Directors may amend this Declaration to correct scrivener's errors or omissions, and amend and restate this Declaration in order to consolidate into one document amendments previously adopted by the Members or the Board of Directors. Amendments adopted by the Board of Directors shall occur at a duly noticed Board of Directors meeting (with adoption of the amendments set forth on the agenda).

21.4 Certificate; Recording. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be in the form required by law and shall be executed by the President or Vice President of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Collier County, Florida.

21.5 Proviso. No amendment may change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to the Unit, or change the proportion or percentage by which the Unit Owner of a parcel shares the Common Expenses and owns the Common Surplus, unless all record Owners of the Unit, and any Institutional Mortgagee holding a mortgage on the Unit, consent in writing to the amendment. This proviso does not apply to changes caused by

condemnation or a taking by eminent domain as provided in Section 17. No amendment shall operate to unlawfully discriminate against any Unit Owner nor against any class of Unit Owners.

22. MISCELLANEOUS:

22.1 Severability. The invalidity or unenforceability in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or word or other provision of this Declaration, or any recorded exhibit to this Declaration, shall not affect the remaining portions.

22.2 Applicable Statutes. The validity, application and construction of this Declaration and its recorded exhibits shall be governed by the Laws of Florida, particularly the Condominium Act, as it exists on the date hereof.

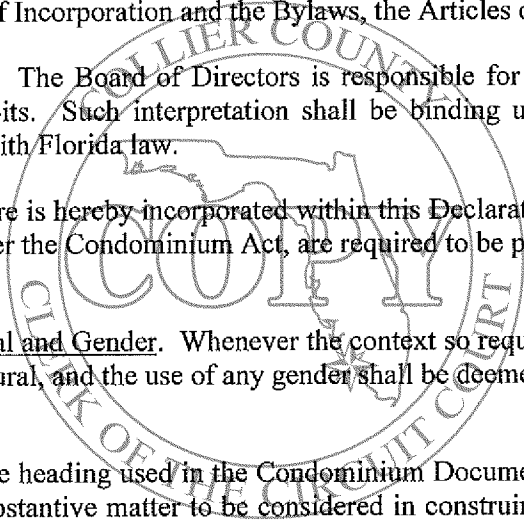
22.3 Conflicts. If there is a conflict between any provision of this Declaration and the Condominium Act, the Condominium Act shall control. If there is a conflict between this Declaration and the Association's Article of Incorporation or Bylaws, the Declaration shall control. If there is a conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control.

22.4 Interpretation. The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable or inconsistent with Florida law.

22.5 Exhibits. There is hereby incorporated within this Declaration any materials contained in the exhibits hereto which, under the Condominium Act, are required to be part of the Declaration.

22.6 Singular, Plural and Gender. Whenever the context so requires, the use of the plural shall include the singular and the plural, and the use of any gender shall be deemed to include all genders.

22.7 Headings. The heading used in the Condominium Documents are for reference purposes only, and do not constitute substantive matter to be considered in construing the terms and provisions of these documents.





EXHIBITS

- Exhibit "4"                    Amended and Restated Bylaws
- Exhibit "5"                    Amended and Restated Articles

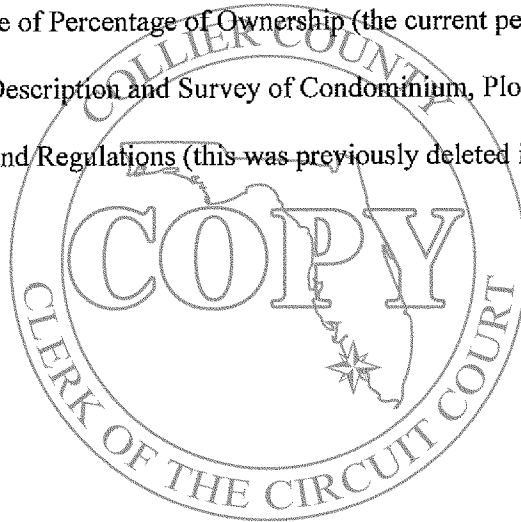
The following exhibits were recorded on June 26, 1985, together with the Declaration of Condominium of Ardisone, a Condominium, at O.R. Book 1142, Page 2291, et. seq., of the Public Records of Collier County, Florida. These exhibits, as previously amended to date, are hereby incorporated by reference as exhibits to the Amended and Restated Declaration of Condominium to which this exhibit list is attached.

Exhibit "1" – there does not appear to have been an Exhibit "1"

Exhibit "2" – Schedule of Percentage of Ownership (the current percentage is 1/33)

Exhibit "3" – Legal Description and Survey of Condominium, Plot Plans and Floor Plans

Exhibit "6" - Rules and Regulations (this was previously deleted in its entirety)



OR: 1991 PG: 0651

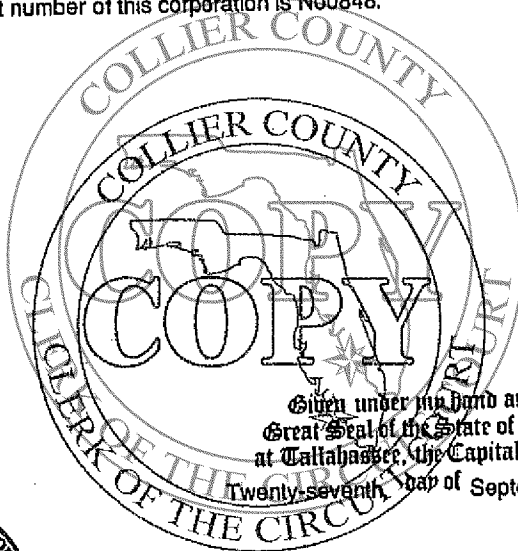
# State of Florida



Department of State

I certify the attached is a true and correct copy of the Amended and Restated Articles of Incorporation, filed on September 26, 1994, for ARDISSONE CONDOMINIUM ASSOCIATION, INC., a Florida corporation, as shown by the records of this office.

The document number of this corporation is N00848.

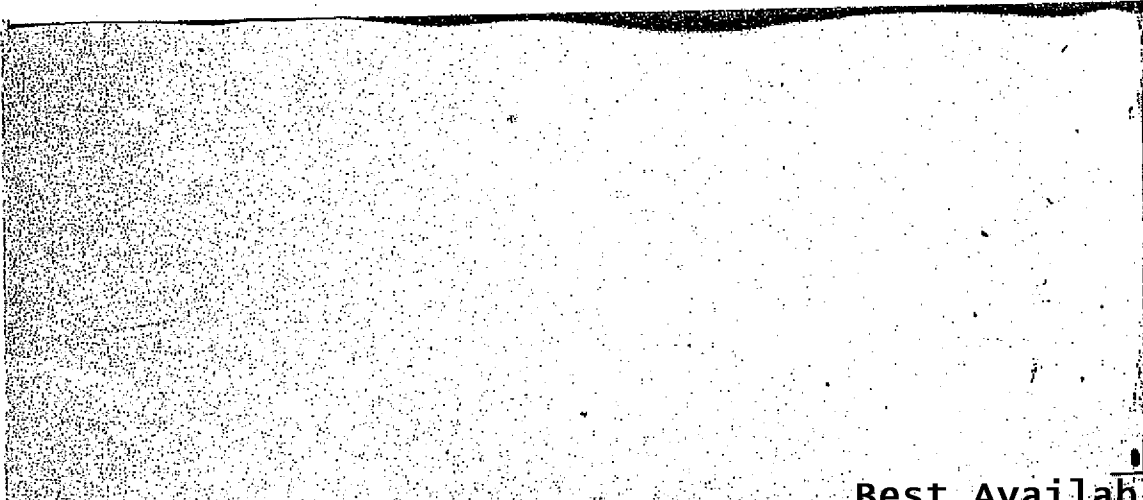


Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Twenty-seventh day of September, 1994



CR2E022 (2-91)

Jim Smith  
Secretary of State



OR: 1991 PG: 0652

FILED  
1991 SEP 26 PM 2:17  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**AMENDED AND RESTATED ARTICLES OF INCORPORATION  
OF  
ARDISSONE CONDOMINIUM ASSOCIATION, INC.**

Pursuant to Section 617.1007(4), Florida Statutes, the Articles of Incorporation of Ardissonne Condominium Association, Inc., a Florida corporation not for profit, which was originally incorporated under the same name on January 11, 1984, are hereby amended and restated in their entirety. All amendments included herein have been adopted pursuant to Section 617.1002, Florida Statutes, and there is no discrepancy between the corporation's Articles of Incorporation as heretofore amended and the provisions of these Amended and Restated Articles other than the inclusion of amendments adopted pursuant to Section 617.1002 and the omission of matters of historical interest. The Amended and Restated Articles of Incorporation of Ardissonne Condominium Association, Inc., shall henceforth be as follows:

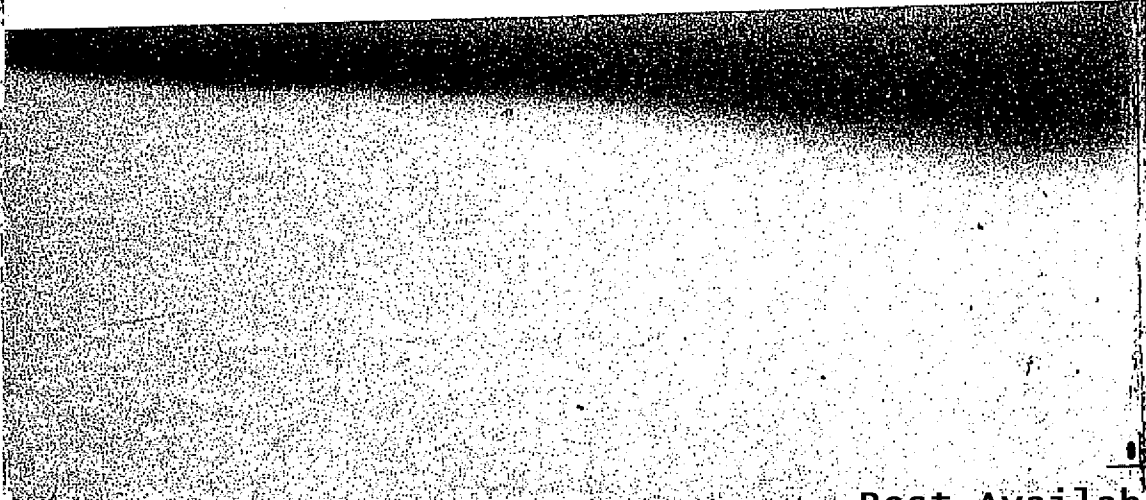
**ARTICLE I**

**NAME:** The name of the corporation, herein called the "Association", is Ardissonne Condominium Association, Inc., and its address is 4400 Gulf Shore Blvd. N., Naples, FL 33940.

**ARTICLE II**

**PURPOSE AND POWERS:** The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act for the operation of Ardissonne, a Condominium, located in Collier County, Florida. The Association is organized and shall exist on a non-stock basis as a corporation not for profit under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or paid to the private benefit of any member, Director or officer. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit under the laws of the State of Florida, except as limited or modified by these Articles, the Declaration of Condominium, the Bylaws or the Florida Condominium Act; and it shall have all of the powers and duties reasonably necessary to operate the Condominium pursuant to said Declaration as it may hereafter be amended, including but not limited to the following:

- (A) To make and collect assessments against members of the Association to defray the costs, expenses and losses of the Association, and to use the funds in the exercise of its powers and duties.
- (B) To protect, maintain, repair, replace and operate the condominium property.
- (C) To purchase insurance upon the condominium property and association property for the protection of the Association and its members.
- (D) To reconstruct improvements after casualty and to make further improvements of the condominium property.
- (E) To make, amend and enforce reasonable rules and regulations governing the use of the common elements, and the operation of the Association.



(F) To approve or disapprove the transfer of ownership and leasing of units, as provided in the Declaration of Condominium.

(G) To enforce the provisions of the Condominium Act, the Declaration of Condominium, these Articles, the Bylaws and any Rules and Regulations of the Association.

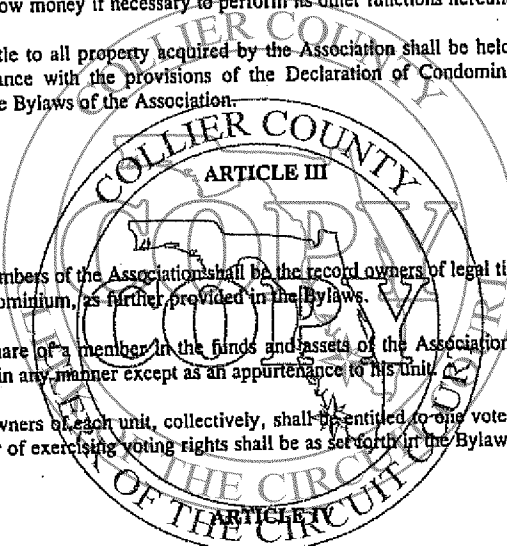
(H) To contract for the management and maintenance of the Condominium and the condominium property, and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by the Declaration of Condominium to be exercised by the Board of Directors or the membership of the Association.

(I) To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Condominium.

(J) To enter into agreements, or acquire leaseholds, memberships, and other possessory, ownership or use interests in lands or facilities, regardless of whether the lands or facilities are contiguous to the lands of the Condominium, if they are intended to provide enjoyment, recreation, or other use or benefit to the unit owners.

(K) To borrow money if necessary to perform its other functions hereunder.

All funds and the title to all property acquired by the Association shall be held for the benefit of the members in accordance with the provisions of the Declaration of Condominium, these Articles of Incorporation and the Bylaws of the Association.



ARTICLE III

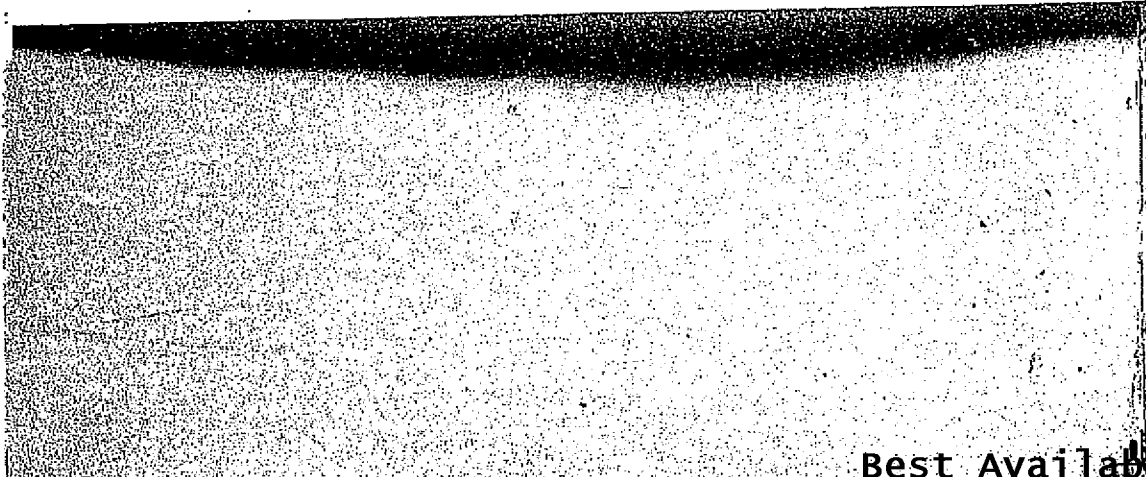
**MEMBERSHIP:**

- (A) The members of the Association shall be the record owners of legal title to one or more units in the Condominium, as further provided in the Bylaws.
- (B) The share of a member in the funds and assets of the Association cannot be assigned or transferred in any manner except as an appurtenance to his unit.
- (C) The owners of each unit, collectively, shall be entitled to one vote in Association matters. The manner of exercising voting rights shall be as set forth in the Bylaws.

**TERM:** The term of the Association shall be perpetual.

ARTICLE V

**BYLAWS:** The Bylaws of the Association may be altered, amended, or rescinded in the manner provided



therein.

**ARTICLE VI**

**DIRECTORS AND OFFICERS:**

- (A) The affairs of the Association shall be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but not less than three (3) Directors, and in the absence of such determination shall consist of three (3) Directors.
- (B) Directors of the Association shall be elected by the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.
- (C) The business of the Association shall be conducted by the officers designated in the Bylaws. The officers shall be elected each year by the Board of Directors at its first meeting after the annual meeting of the members of the Association, and they shall serve at the pleasure of the Board.

**ARTICLE VII**

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

- (A) **Proposal.** Amendments to these Articles may be proposed by a majority of the Board or by written petition, signed by at least one-fourth (1/4) of the voting interests.
- (B) **Procedure.** Upon any amendment to these Articles being proposed by the Board or unit owners, the proposed amendment shall be submitted to a vote of the owners not later than the next annual meeting for which proper notice can be given.
- (C) **Vote Required.** Except as otherwise provided by law, a proposed amendment to these Articles of Incorporation shall be adopted if it is approved by at least a majority of the voting interests at any annual or special meeting, provided that notice of any proposed amendment has been given to the members of the Association, and that the notice contains the full text of the proposed amendment.
- (D) **Effective Date.** An amendment shall become effective upon filing with the Secretary of State and recording a certified copy in the Public Records of Collier County, Florida, with the same formalities as required by law for recording amendments to the Bylaws.

**ARTICLE VIII**

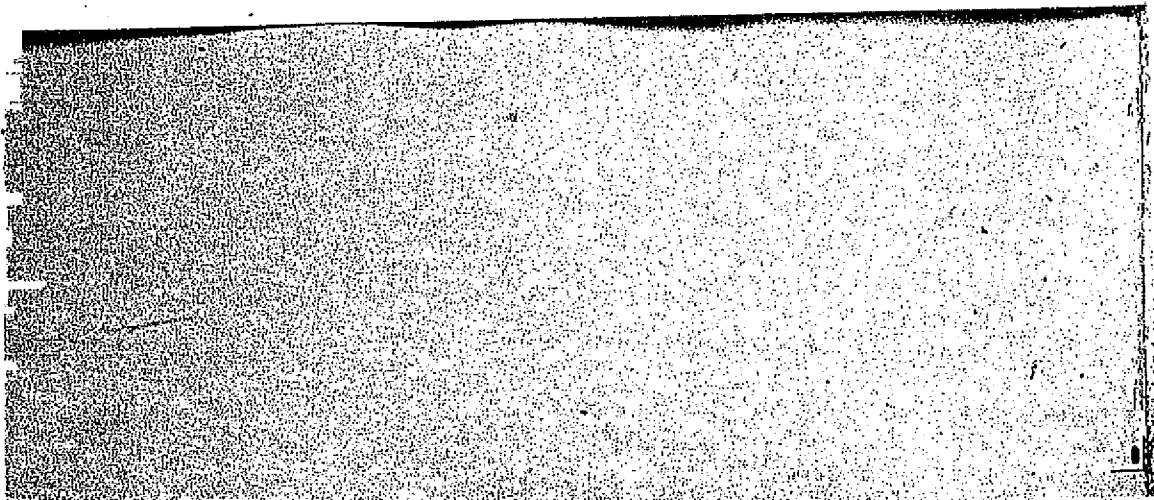
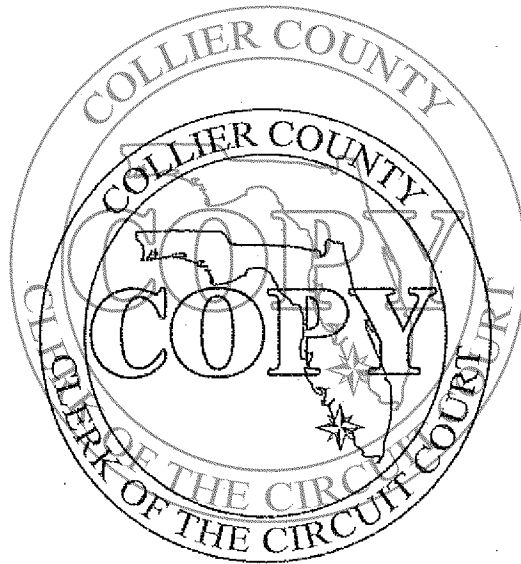
**INDEMNIFICATION:** To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every officer of the Association against all expenses and liabilities, including attorneys fees, actually and reasonably incurred by or imposed on that officer or Director in connection with any legal proceeding (or settlement or appeal of such proceeding) to which

OR: 1991 PG: 0655

that person may be a party because of being or having been a Director or officer of the Association. The foregoing right of indemnification shall not be available if a judgement or other final adjudication establishes that his actions or omissions to act were material to the cause adjudicated and involved:

- (A) Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgement in its favor.
- (B) A violation of criminal law, unless the Director or officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.
- (C) A transaction from which the Director or officer derived an improper personal benefit.
- (D) Recklessness, or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and wilful disregard for human rights, safety or property, in an action by or in the right of someone other than the association or a shareholder.

In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approves the settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to, and not exclusive of, all other rights to which a Director or officer may be entitled.



OR: 1991 PG: 0656

CERTIFICATE

The undersigned, being the duly elected and acting President and Secretary of Ardissonne Condominium Association, Inc., hereby certify that the foregoing were duly proposed and approved by at least sixty-six and two-thirds (66-2/3rds) percent of the entire membership of the Board of Directors at a special meeting called for the purpose and held on the 1<sup>st</sup> day of August, 1994. The undersigned further certify that the foregoing were approved by at least sixty-six and two-thirds (66-2/3rds) percent of the votes of the entire membership of the Association on the 1<sup>st</sup> day of August, 1994, after due notice, in accordance with the requirements of the Articles of Incorporation for their amendment, and that said vote was sufficient for their amendment. The foregoing both amend and restate the amended Articles of Incorporation in their entirety.

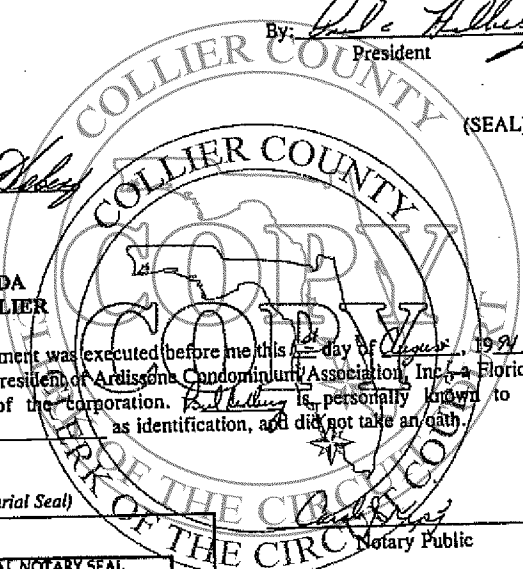
Executed this 1<sup>st</sup> day of August, 1994

ARDISSONE CONDOMINIUM ASSOCIATION, INC.

By: Paul C. Halberg  
President

Attest:

Paul R. Whaley  
Secretary



FILED  
1994 SEP 26 PM 2 17  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was executed before me this 1<sup>st</sup> day of August, 1994, by Paul C. Halberg as President of Ardissonne Condominium Association, Inc., a Florida corporation not for profit, on behalf of the corporation. Paul C. Halberg is personally known to me or did produce as identification, and did not take an oath.

(Notarial Seal)

OFFICIAL NOTARY SEAL  
CAROLE J KIPP  
NOTARY PUBLIC STATE OF FLORIDA  
COMMISSION NO. CC348161  
MY COMMISSION EXP. FEB. 14, 1998

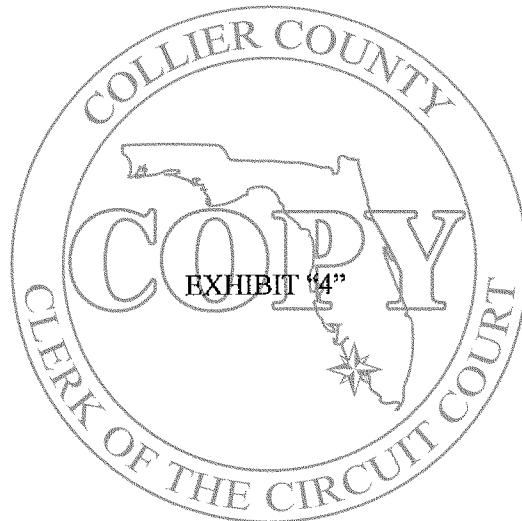
Print Name: Carole J Kipp

ARTICLES  
Page 6

Exhibit "5"

SWALM & MURRELL, P.A. ■ Attorneys at Law ■ 2375 Tamiami Trail N., Suite 308 ■ Naples, FL 33940

**AMENDED AND RESTATED BYLAWS**  
**OF**  
**ARDISSONE CONDOMINIUM ASSOCIATION, INC.**

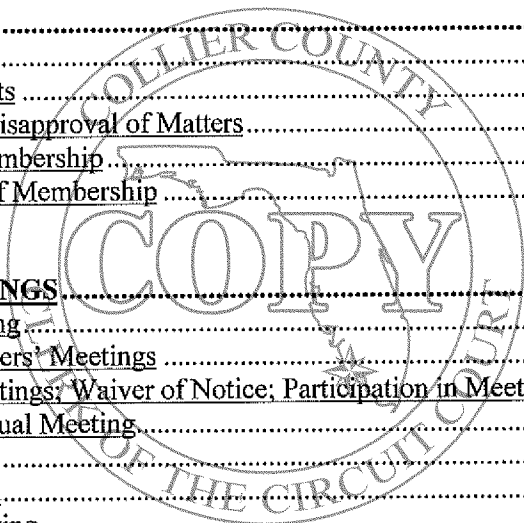


Falk Law Firm, P.A.  
7400 Tamiami Trail North, Suite 103, Naples, FL 34108

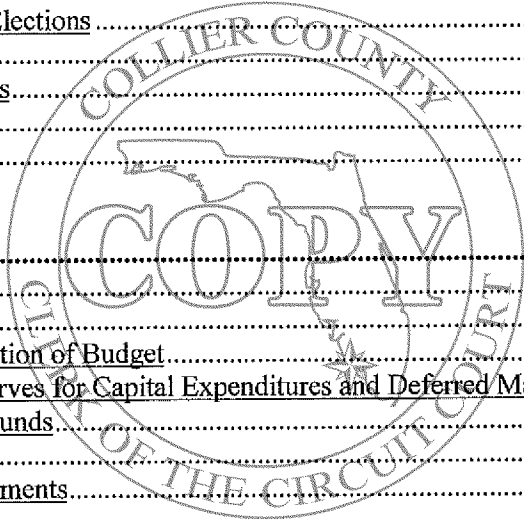


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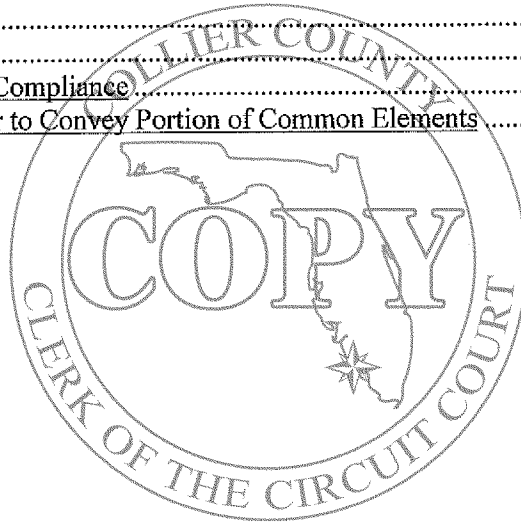
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**NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE BYLAWS. FOR PRESENT TEXT SEE EXISTING BYLAWS.**

**AMENDED AND RESTATED BYLAWS OF  
ARDISSONE CONDOMINIUM ASSOCIATION, INC.**

**1. GENERAL.** These are the Amended and Restated Bylaws of Ardissonne Condominium Association, Inc., hereinafter the "Association", a Florida corporation not for profit organized under the laws of Florida for the purpose of operating the Condominium pursuant to the Condominium Act. All prior Bylaws are hereby revoked and superseded in their entirety.

1.1 Principal Office. The principal office of the Association is 4400 Gulf Shore Blvd. N., Naples, FL 34103.

1.2 Seal. The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "not for profit". The seal may be used by causing it, or a facsimile of it (or the word "SEAL"), to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

1.3 Definitions. The definitions set forth in the Declaration (or the Condominium Act, if in conflict with the definition in the Declaration or such term is not defined in the Declaration) shall apply to terms used in these Bylaws.

**2. MEMBERS.**

2.1 Qualifications. Members shall be the record Owners of legal title to the Units in the Condominium. In the case of a Unit subject to an agreement for deed, the purchaser in possession shall be deemed the Owner of the Unit for purposes of determining voting and use rights. Membership shall become effective upon the occurrence of the last to occur of the following events.

- (A) Recording in the Public Records of a deed or other instrument evidencing legal title to a Unit.
- (B) Approval by the Board of Directors as may be provided for in the Declaration of Condominium.
- (C) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.
- (D) Delivery to the Association, if required, of a written designation of the Primary Occupant.

The failure to comply with the prerequisites set forth in (B)-(D) above shall not release the Unit Owner from the obligation to comply with the Condominium Documents, but shall otherwise preclude such

Unit Owner from obtaining the benefits of membership, including, without limitation, the right to receive notices and the right to vote on Association matters.

2.2 Voting Interests. Members are entitled to one vote for each Unit owned by them. The total number of possible votes is equal to the total number of Units in the Condominium. Therefore, the term "Voting Interest" has the same meaning as "Unit" and the term "Voting Interests" has the same meaning as "Units" for purposes of determining the number of Units that must approve certain actions as provided in the Condominium Documents and the Condominium Act. The vote of a Unit is not divisible. If a Unit is owned by one person, his or her right to vote shall be established by the record title to the Unit. If a Unit is owned jointly by 2 or more persons, that Unit's vote may be cast by any one of the record Unit Owners. If 2 or more Owners of a Unit do not agree among themselves as to how their one vote shall be cast, no vote for that Unit shall be counted. If the Unit Owner is not a natural person, the vote of that Unit shall be cast by the Unit's Primary Occupant. A Voting Interest or consent right allocated to a Unit owned by the Association may not be exercised or considered for any purpose, whether for a quorum, an election, or otherwise.

2.3 Approval or Disapproval of Matters. Whenever the decision or approval of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, such decision may be expressed by any person authorized to cast the vote of such Unit at an Association meeting as stated in Section 2.2 above, unless the joinder of all record Unit Owners is specifically required.

2.4 Change of Membership. Following written approval of the Association, a change of membership in the Association shall be established by the new Member's membership becoming effective as provided in 2.1 above. At that time the membership of the prior Member shall be terminated automatically.

2.5 Termination of Membership. The termination of membership in the Association does not relieve or release any former Member from liability or obligation incurred under or in any way connected with the Association during the period of his or her membership, nor does it impair any rights or remedies which the Association may have against any former Member arising out of or in any way connected with such membership and the covenants and obligations incident thereto.

### 3. MEMBERS' MEETINGS.

3.1 Annual Meeting. An annual meeting shall be held at the Condominium Property (or such other location in Collier County if specified in the notice, provided that the location is within forty-five (45) miles of the Condominium Property) during January, February or March in each year, on a day, time and place designated by the Board of Directors. The purpose of the annual meeting is to conduct the election of Directors and for any purpose as may be transacted by the Members. During the annual meeting the ballots cast in the annual election of Directors shall be counted and results announced.

3.2 Special Members' Meetings. Special Members' meetings must be held whenever called by the President or by a majority of the Directors, and may also be called by the Owners of at least 4 Units. The substantive business to be voted on at any special or regular Members' meeting shall be limited to the items specified in the notice of meeting.

3.3 Notice of Meetings; Waiver of Notice; Participation in Meetings. Notice of all Members' meetings must state the time, date, and place of the meeting, and include an agenda for the meeting. The notice of meeting must be mailed to each Member at the address which appears on the books of the Association (which shall be the address last furnished to the Association by the Unit Owner), or may be

furnished by hand-delivery, or by electronic transmission in the manner set forth in Section 617.0141, Florida Statutes, to the extent that a Member has consented to receive notices by electronic transmission and has not revoked such consent. Any such consent to receiving electronic transmissions shall be deemed revoked if: the Association is unable to deliver by electronic transmission 2 consecutive notices given by the Association in accordance with such consent; and such inability becomes known to the Secretary, Assistant Secretary or other authorized person responsible for the giving of notice. However, the inadvertent failure to treat such inability as a revocation does not invalidate any meeting or other action. A Member who consents to receiving notices by electronic transmission is solely responsible for removing or bypassing filters that block receipt of mass emails sent to Members on behalf of the Association in the course of giving electronic notices. Notice of a meeting called to recall a member or members of the Board of Directors pursuant to Section 718.112(2)(j) of the Condominium Act shall not be given by electronic transmission. The Member is responsible for providing the Association with notice of any change of mailing address, facsimile number or electronic mail address. To the extent that a Member has provided the Association with a facsimile number or electronic mail address and consented to receive notices by electronic transmission, such information shall be considered an "official record" until the Member has revoked his consent. However, the Association is not liable for an erroneous disclosure of an electronic mail address or facsimile number. The notice of meeting must be mailed, hand-delivered, or electronically transmitted at least 14 days before the meeting. An affidavit of the Officer or other person making such mailing shall be retained in the Association records as proof of mailing. If ownership of a Unit is transferred after notice has been mailed, no separate notice to the new Unit Owner is required. A Member may waive notice of any meeting at any time, but only by written waiver. However, attendance at any meeting by a Member constitutes waiver of notice by that Member unless the Member objects to the lack of notice at the beginning of the meeting. Members have the right to participate in all Members' meetings with reference to all designated agenda items. A Member may tape record or videotape a Members' meeting subject to any applicable Rules and Regulations.

3.4 Notice of Annual Meeting. Notice of the annual meeting shall be posted in a conspicuous location at the Condominium Property for at least 14 continuous days before the annual meeting. In lieu of or in addition to the physical posting of meeting notices, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Association. However, if broadcast notice is used in lieu of a notice posted physically on the Condominium Property, the notice and agenda must be broadcast at least 4 times every broadcast hour of each day that a posted notice is otherwise required under these Bylaws and the Condominium Act. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting, the Association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on a website serving the Association for at least the minimum period of time for which a notice of meeting is also required to be physically posted on the Condominium Property. Any rule adopted shall, in addition to other matters, include a requirement that the Association send an electronic notice in the same manner as a notice for a meeting of the Members, which must include a hyperlink to the website where the notice is posted, to Unit Owners whose e-mail addresses are included in the Association's official records.

3.5 Quorum. A quorum at meetings of the Members shall be attained by the presence, either in person or by proxy, of Members entitled to cast at least a majority of the Voting Interests. After a quorum has been established at a Members' meeting, the subsequent withdrawal of any Members, so as to reduce the number of Voting Interests represented below the number required for a quorum, shall not affect the validity of any action taken at the meeting before or after such persons leave.

3.6 Vote Required. The acts approved by a majority of the votes cast, in person or by proxy, at a duly called meeting of the Members at which a quorum has been attained shall be binding upon all Unit Owners for all purposes, except where a greater or different number of votes is expressly required by law or by any provision of the Condominium Documents.

3.6.1 Electronic Voting. Pursuant to Section 718.128 of the Condominium Act, the Association may conduct elections and other Unit Owner votes through an internet-based online voting system if a Unit Owner consents, in writing, to online voting and if the following requirements are met:

(A) The Association provides each Unit Owner with:

- (1) A method to authenticate the Unit Owner's identity to the online voting system;
- (2) For elections of the Board of Directors, a method to transmit an electronic ballot to the online voting system that ensures the secrecy and integrity of each ballot; and
- (3) A method to confirm, at least 14 days before the voting deadline, that the Unit Owner's electronic device can successfully communicate with the online voting system.

(B) The Association uses an online voting system that is able to:

- (1) Authenticate the Unit Owner's identity;
- (2) Authenticate the validity of each electronic vote to ensure that the vote is not altered in transit;
- (3) Transmit a receipt from the online voting system to each Unit Owner who casts an electronic vote;
- (4) For elections of the Board of Directors, permanently separate any authentication or identifying information from the electronic election ballot, rendering it impossible to tie an election ballot to a specific Unit Owner;
- (5) Store and keep electronic votes accessible to election officials for recount, inspection and review purposes.

(C) A Unit Owner voting electronically pursuant to Section 718.128 of the Condominium Act shall be counted as being in attendance at the meeting for purposes of determining a quorum. A substantive vote of the Unit Owners may not be taken on any issue other than the issues specifically identified in the electronic vote, when a quorum is established based on Unit Owners voting electronically pursuant to Section 718.128 of the Condominium Act.

(D) The Board of Directors must adopt a resolution that provides for and authorizes an online voting system pursuant to Section 718.128 of the Condominium Act. Such resolution must: provide that Unit Owners receive notice of the opportunity to vote through an online voting system; establish reasonable procedures and deadlines for Unit Owners to consent, in writing, to online voting; and establish reasonable procedures and deadlines for Unit Owners to opt out of online voting after giving consent. Written notice of a meeting at which the resolution will be considered must be mailed, delivered or electronically transmitted to the Unit Owners and posted conspicuously on the Condominium Property or Association Property at least

14 days before the meeting. Evidence of compliance with the 14 day notice requirement must be made by an affidavit executed by the person providing the notice and filed with the Association's official records.

(E) A Unit Owner's consent to online voting is valid until the Unit Owner opts out of online voting according to the procedures established by the Board of Directors pursuant to (D) above.

3.7 Proxy Voting. To the extent lawful, any person entitled to attend and vote at a Members' meeting may establish his presence and cast his vote by proxy. A proxy shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting. A proxy is not valid longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the vote for the Unit, specify the date, time and place of the meeting for which it is given, and must be delivered to the Association by the appointed time of the meeting or adjournment thereof. Any copy, facsimile transmission or other reliable reproduction of the original proxy may be substituted or used in lieu of the original proxy for any purpose for which the original proxy could be used if the copy, facsimile transmission or other reproduction is a complete reproduction of the entire proxy. Holders of proxies need not be Members. No proxy shall be valid if it names more than one person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy. Except as specifically otherwise provided herein, Members may not vote by general proxy, but may vote by limited proxy. Limited proxies and general proxies may be used to establish a quorum. Limited proxies and general proxies may not be used in the election of Directors. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for non-substantive changes to items for which a limited proxy is required and given. Limited proxies shall be used for any matter for which the Condominium Documents or the Condominium Act requires or permits a vote of the Members and for which a general proxy is not permitted, including, without limitation, votes taken to: waive or reduce reserves; waive financial statement requirements, and amend the Condominium Documents. Notwithstanding the foregoing, Members may vote in person at Members' meetings.

3.8 Adjourned Meetings. Any duly called meeting of the Members may be adjourned to be reconvened at a specific later time by vote of a majority of the Voting Interests present in person or by proxy, regardless of whether a quorum has been attained. When a meeting is adjourned it shall not be necessary to give notice to all Members of the time and place of its continuance if such are announced at the meeting being adjourned. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance, provided a quorum is then present, in person or by proxy.

3.9 Order of Business/Agenda. The order of business and agenda at Members' meetings shall be substantially as follows:

- (A) Call to order by the President or other designated Chairman of the meeting
- (B) (Annual meeting) Collection of election ballots not yet cast and closing of the polls; or announcement of names of candidates who will take office upon adjournment of the annual meeting
- (C) Call of the roll or certification of a quorum
- (D) Proof of Notice of Meeting (and posting, if applicable)
- (E) Reading or disposal of any unapproved minutes
- (F) Reports of Officers, if any
- (G) Reports of Committees, if any
- (H) Unfinished Business (with the items to be considered specifically listed in the agenda).
- (I) New Business (with the items to be voted on specifically listed in the agenda and in



- the limited proxy)  
 (J) Adjournment

3.10 Minutes. Minutes of all meetings of Members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by Members or their authorized representatives and Directors at reasonable. Minutes must be reduced to written form within 30 days after the meeting at which they were taken.

3.11 Parliamentary Rules. Roberts' Rules of Order (latest edition) shall guide the conduct of the Association meeting when not in conflict with Florida law or the Condominium Documents. The Chairman of the meeting may appoint a Parliamentarian whose decision on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

3.12 Action by Members Without Meeting. Any action required or permitted to be taken at a meeting of the Members may be taken without a meeting if written consents, setting forth the action to be taken, are signed by the Members having not less than the minimum number of votes that would be necessary to take such action at a meeting at which all Members entitled to vote on such action were present and voted. Action by Members without a meeting shall be undertaken in the manner required by Chapter 617, Florida Statutes. Nothing in this paragraph shall be construed in derogation of Members' rights to call a special Members' meeting, as provided for elsewhere in these Bylaws.

**4. BOARD OF DIRECTORS.** The administration of the affairs of the Association shall be by the Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Condominium Documents, shall be exercised by the Board of Directors, subject to approval or consent of the Members only when such is specifically required by the Condominium Act or the Condominium Documents.

4.1 Number and Terms of Service. The affairs of the Association shall be managed by a Board of Directors consisting of not less than 3 Directors. All Directors shall be elected for 2 year terms, with terms of one Director to expire in even numbered years and 2 Directors in odd numbered years. A Director's term will end at the annual election at which his term expires, unless he or she sooner resigns, or is recalled as provided in 4.5 below. Directors shall be elected by the Members as described in Section 4.3 below, or in the case of a vacancy, as provided in Section 4.4 below. A Director may not serve more than 4 consecutive 2-year terms, unless approved by an affirmative vote of Unit Owners representing 2/3 of all votes cast in the election or unless there are not enough eligible candidates to fill the vacancies on the Board of Directors at the time of the vacancy. However, a Director elected prior to July 1, 2018 may serve the remainder of his unexpired term, even if such service results in that Director exceeding the foregoing term limit provision. However, subsequent to the expiration of such term, a Director shall be subject to the term limit provision if he is subsequently elected or appointed to the Board of Directors.

4.2 Qualifications. Each Director must be a Member or a Primary Occupant (in the case of Units required to designate a Primary Occupant pursuant to Section 14 of the Declaration) or the spouse of a Member or Primary Occupant. Co-Owners of a Unit may not serve as Directors at the same time unless they own more than one Unit or unless there are not enough eligible candidates to fill the vacancies on the Board of Directors at the time of the vacancy. A person who has been suspended or removed by the Division of Florida Condominiums, Timeshares and Mobile Homes ("Division"), or who is delinquent in the payment of any monetary obligation due to the Association, is not eligible to be a candidate for Board membership and may not be listed on the ballot. A person who has been convicted of any felony in Florida or in a United States District or Territorial Court, or who has been convicted of any offense in

another jurisdiction which would be considered a felony if committed in the State of Florida, is not eligible for Board of Directors membership unless such felon's civil rights have been restored for at least 5 years as of the date such person seeks election to the Board of Directors. The validity of an action by the Board of Directors is not affected if it is later determined that a member of the Board of Directors is ineligible for Board of Directors membership due to having been convicted of a felony. A Director more than 90 days delinquent in the payment of any monetary obligation due the Association shall be deemed to have abandoned the office, creating a vacancy in the office to be filled according to Florida law and any applicable Division rules. A Director charged by information or indictment with a felony theft or embezzlement offense involving the Association's funds or property must be removed from office, creating a vacancy in the office to be filled according to Florida law until the end of the period of the suspension or the end of the Director's term of office, whichever occurs first. While such Director has such criminal charge pending, he or she may not be appointed or elected to a position as a Director. However, if the charges are resolved without a finding of guilt, the Director shall be reinstated for the remainder of his or her term of office, if any.

4.3 Nomination and Elections. On the day of each annual meeting the Members shall elect by secret written ballot as many Directors as there are regular terms of Directors expiring. The Board of Directors may not appoint a committee for the purpose of nominating candidates for the election of Directors. However, the Board of Directors may appoint a search committee to encourage qualified persons to become candidates. The First Notice of each annual election shall be mailed, hand-delivered or electronically transmitted to all Unit Owners at least 60 days in advance. Any Unit Owner or other eligible person desiring to be a candidate for the Board must give written notice of his or her intent to be a candidate to the Association at least 40 days before a scheduled election. Notice shall be deemed effective when received by the Association. A person must be eligible to be a candidate to serve on the Board of Directors at the time of the deadline for submitting a notice of intent to run in order to have his or her name listed as a proper candidate on the ballot or to serve on the Board of Directors. Any person indicating his or her desire to qualify as a candidate may also return a separate information sheet, no larger than 8 1/2" by 11", which describes the candidate's background, education and qualifications for office, and any other information deemed relevant by the candidate, which information sheet must be furnished by the candidate at least 35 days prior to the election. The Association has no liability for the contents of the information sheets prepared by the candidates. The Association shall mail, hand-deliver or electronically transmit a Second Notice of the election, together with the candidate information sheets and ballot which shall list all candidates in alphabetical order by surname, at least 14 days in advance of the election; provided, however, that if the number of candidates does not exceed the number of vacancies, then no election shall be required, and the candidates become members of the Board of Directors effective upon the adjournment of the annual meeting. Directors shall be elected by a plurality of the ballots cast. In the event of a tie vote, the Association shall proceed with a runoff election pursuant to rules adopted by the Division, unless the candidates who have tied voluntarily agree on which candidate shall take office or the tie is broken by lot. There is no quorum requirement for the election; however, at least 20% of the Members must cast a ballot in order to have a valid election of Directors. A Member shall not authorize any other person to vote his ballot, and any ballots improperly cast are invalid. Notwithstanding the foregoing, a Member who needs assistance in casting the ballot by reason of blindness, disability, or inability to read or write, may obtain such assistance. In the election of Directors, there shall be appurtenant to each Unit as many votes for Directors as there are Directors to be elected, but no Unit may cast more than one vote for any candidate, it being the intent hereof that voting for Directors shall be non-cumulative. Notices, candidate information sheets and ballots may be given by electronic transmission (to those Members who have so consented), pursuant to rules adopted by the Division. Within 90 days after being elected or appointed, each newly elected or appointed Director shall certify in writing to the Secretary that he or she has read the Declaration of Condominium, Articles of Incorporation, Bylaws and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully

discharge his or her fiduciary responsibility to the Members. In lieu of this written certification, within 90 days after being elected or appointed, the newly elected or appointed Director may submit a certificate of having satisfactorily completed the educational curriculum administered by a Division-approved condominium education provider within one year before or 90 days after the date of election or appointment. The written certification or educational certificate is valid and does not have to be resubmitted as long as the Director serves on the Board of Directors without interruption. A Director who fails to timely file the written certification or educational certificate is suspended from service on the Board of Directors until he or she complies with the requirements set forth above. The Board of Directors may temporarily fill the vacancy during the period of suspension. The Secretary shall cause the Association to retain a Director's written certification or educational certificate for inspection by the Members for 5 years after a Director's election or the duration of the Director's uninterrupted tenure, whichever is longer. Failure to have such written certification or educational certification on file does not affect the validity of any Board action.

4.4 Vacancies on the Board of Directors. If the office of any Director becomes vacant for any reason other than removal by the Members, a majority of the remaining Directors, though less than a quorum, shall promptly choose a successor to fill the remaining unexpired term. If for any reason there shall arise circumstances in which no Directors are serving and the entire Board of Directors is vacant, the Members shall elect successors by written ballot in the same manner as provided generally for regular annual elections, except that the election need not take place on the date of the annual meeting. Alternatively, a Unit Owner may seek the appointment of a receiver pursuant to Section 718.1124 of the Condominium Act.

4.5 Recall of Directors. Any or all Directors who were elected by the Members may be removed ("recalled") with or without cause by a majority vote of all Voting Interests, either by a written petition, or at any meeting called for that purpose, in the manner required by the Condominium Act.

4.5.1 Recall of Directors by Meeting. A special meeting of the Members to recall a member or members of the Board of Directors may be called by at least 10% of the Voting Interests, giving notice of the meeting as required for any other Members' meeting, and the notice shall state the purpose of the meeting. Electronic transmission may not be used as a method of giving notice of a meeting called in whole or in part for the purpose of a recall. If the recall is approved by a majority of all Voting Interests by a vote at a meeting, the recall will be effective as provided below. The Board of Directors shall duly notice and hold a Board of Directors meeting within 5 full business days after the adjournment of the Members' recall meeting. Such Director or Directors shall be recalled effective immediately upon conclusion of the Board of Directors' meeting, provided that the recall is facially valid. A recalled Director must turn over to the Board of Directors within 10 full business days after the vote any and all Association records and property in their possession.

4.5.2 Recall of Directors by Written Agreement. If the proposed recall is by a written agreement by a majority of all Voting Interests, the written agreement or a copy thereof shall be served on the Association by certified mail or by personal service in the manner authorized by Chapter 48, Florida Statutes and the Florida Rules of Civil Procedure. The Board of Directors shall duly notice and hold a Board of Directors meeting within 5 full business days after receipt of the written agreement. Such Director or Directors shall be recalled effective immediately upon conclusion of the Board of Directors' meeting, provided that the recall is facially valid. A recalled Director must turn over to the Board of Directors within 10 full business days any and all Association records and property in their possession.

4.5.3 Failure of Board of Directors to Hold Board of Directors Meeting. If the Board of Directors fails to duly notice and hold a Board of Directors meeting within 5 full business days after service of a written recall agreement or within 5 full business days of the adjournment of the Members' recall

meeting, the recall shall be deemed effective and the Directors so recalled shall turn over to the Board of Directors within 10 full business days after the vote any and all Association records and property in their possession.

If the Board fails to duly notice and hold the required meeting or at the conclusion of the meeting determines that the recall is not facially valid, the Unit Owners' representative may file a Petition for Arbitration pursuant to Section 718.1255 of the Condominium Act challenging the Board's failure to act or challenging the Board's determination on facial validity. The Petition for Arbitration must be filed within 60 days after the expiration of the applicable 5 full business day period. The review of a Petition for Arbitration in that case shall be limited to the sufficiency of service on the Board and the facial validity of the written agreement or ballots filed. A Director who has been recalled may file a Petition for Arbitration pursuant to Section 718.1255 of the Condominium Act challenging the validity of the recall. The Petition for Arbitration must be filed within 60 days after the recall. The Association and the Unit Owners' representative shall be named as the respondents. The Petition for Arbitration may challenge the facial validity of the written agreement or ballots filed or the substantial compliance with the procedural requirements for the recall. If the arbitrator determines the recall was invalid, the petitioning Director shall immediately be reinstated and the recall is null and void. A Director who is successful in challenging a recall is entitled to recover reasonable attorney's fees and costs from the respondents. The arbitrator may award reasonable attorney's fees and costs to the respondents if they prevail, if the arbitrator makes a finding that the petitioning Director's claim is frivolous. The Division may not accept for filing a Petition for Arbitration when there are 60 or fewer days until the scheduled reelection of the Director sought to be recalled or when 60 or fewer days have elapsed since the election of the Director sought to be recalled.

4.5.4 Filling Vacancies Caused by Recall. If a vacancy occurs on the Board of Directors as a result of a recall or removal and less than a majority of the Directors are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining Directors. If vacancies occur on the Board of Directors as a result of a recall and a majority or more of the Directors are removed, the vacancies shall be filled in accordance with administrative rules of the Division.

4.5.5 Administrative Rules of the Division. The recall of one or more Directors shall occur in accordance with Rules 61B-23.0027 and 23.0028, Florida Administrative Code.

4.6 Resignation of Directors. Any Director may resign at any time by sending a written notice of such resignation to the Secretary of the Association. Unless otherwise specified therein, such resignation shall take effect upon receipt by the Secretary.

4.7 Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within 10 days after the election for purposes of electing Officers and such other business as is customarily conducted at an organizational meeting. The organizational meeting may occur immediately following the election, in which case notice of the organizational meeting may be provided by the existing Board of Directors as a notation in the Second Notice of election. If the notice of the organizational meeting is not provided and posted as part of the Second Notice of election, notice of the organizational meeting must be posted conspicuously on the Condominium Property for at least 48 continuous hours in advance of the meeting.

4.8 Other Meetings. Meetings of the Board of Directors may be held at such time and place in Collier County, Florida, as shall be determined from time to time by the President or a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone, telegram or other form of electronic transmission at least 48 hours prior to the day named for such meeting except in an emergency. If notice is transmitted by facsimile, notice shall be effective if correctly directed to a number at

which the Director has consented to receive notice. If notice is transmitted by electronic mail, notice shall be effective if correctly directed to an email address at which the Director has consented to receive notice.

4.9 Notice to Unit Owners. All meetings of the Board of Directors are open to Unit Owners and notices of all Board of Directors meetings shall be posted conspicuously on the Condominium Property for at least 48 continuous hours before each Board of Directors meeting, except in an emergency. Notice of all Board of Directors meetings must specifically identify all agenda items. Any item not included on the agenda may be taken up on an emergency basis by at least a majority plus one of the members of the Board of Directors. Such emergency action must be noticed and ratified at the next regular meeting of the Board of Directors. If 20% of the Voting Interests petition the Board of Directors to address an item of business, the Board of Directors at its next regular Board of Directors meeting or at a special meeting of the Board of Directors, but not later than 60 days after the receipt of the petition, shall place the item on the agenda. Notice of any Board of Directors meeting at which a non-emergency Special Assessment or contingent Special Assessment levied in conjunction with the purchase of an insurance policy authorized by Section 718.111(11) of the Condominium Act will be considered shall conform to the requirements set forth in Section 6.6 below. Notice of any Board of Directors meeting at which an amendment to Rules and Regulations concerning the use of a Unit will be considered must be mailed, hand-delivered, or electronically transmitted (in the latter case, to those Unit Owners who have so consented) to all Unit Owners and posted conspicuously on the Condominium Property at least 14 days before the meeting. Notice of any Board of Directors meeting at which a budget will be adopted or amended shall conform to the requirements of Section 6.2 below. Notice of any meeting in which regular or special Assessments against Unit Owners are to be considered must specifically state that Assessments will be considered and provide the estimated cost and description of the purposes for such Assessments. The rights of Unit Owners to attend Board of Directors meetings includes the right to speak with reference to all designated agenda items, subject to the Rules and Regulations of the Association as to the manner of doing so. Evidence of compliance with the notice and posting requirements set forth in this Section 4.9 and elsewhere in the Condominium Documents (including, without limitation, Sections 6.2 and 6.6 of these Bylaws) may be made by an affidavit executed by the person giving notice and posting same, and filed with the Association's official records. Notwithstanding anything to the contrary contained in the Condominium Documents, meetings of the Board of Directors or a committee with the Association's attorney with respect to proposed or pending litigation, if the meeting is held for the purpose of seeking or rendering legal advice, and meetings held for the purpose of discussing personnel matters, shall not be open to the Unit Owners, but notice of such meeting shall nevertheless be posted. Notices of Board of Directors meetings may be given by electronic transmission (to those Members who have so consented) in lieu of mail or hand-delivery, when the latter 2 methods are otherwise required pursuant to the Condominium Act. In lieu of or in addition to the physical posting of notices of any meeting of the Board of Directors on the Condominium Property, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Association. However, if broadcast notice is used in lieu of a notice posted physically on the Condominium Property, the notice and agenda must be broadcast at least 4 times every broadcast hour of each day that a posted notice is otherwise required under these Bylaws and the Condominium Act. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the Board of Directors, the Association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on a website serving the Association for at least the minimum period of time for which a notice of meeting is also required to be physically posted on the Condominium Property. Any rule adopted shall, in addition to other matters, include a requirement that the Association send an electronic notice in the same manner as a notice for a meeting of the Members, which must include a hyperlink to the website where the notice is posted, to Unit Owners whose e-mail addresses are included in the Association's official records.

Tape recording and videotaping of Board of Directors meetings shall be governed by the Rules and Regulations.

4.10 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice to Directors shall be required.

4.11 Quorum of Directors. A quorum at a Board of Directors meeting shall exist when at least a majority of all Directors are present at a duly called meeting. A Board or committee member's participation in a meeting via telephone, real-time videoconferencing, or similar real-time electronic or video communication counts toward a quorum, and such member may vote as if physically present. A speaker must be used so that the conversation of such members may be heard by the Board or committee members attending in person as well as by any Unit Owners present at a meeting. Directors may not vote or participate by proxy at Board of Directors meetings. Directors may not vote by secret ballot at Board of Directors meetings, except that Officers may be elected by secret ballot. Directors may use e-mail as a means of communication but may not cast a vote on an Association matter via e-mail.

4.12 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum exists shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Condominium Documents or by Florida law. A Director who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless he or she votes against such action or abstains from voting. A Director who abstains from voting shall be deemed to have taken no position with regard to the action. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes.

4.13 Adjourned Meetings. The majority of the Directors present at any meeting of the Board of Directors, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date. Notice of the rescheduled or reconvened meeting shall be provided in the manner set forth in Section 4.8 above. At any reconvened meeting, provided a quorum is present, any business may be transacted that might have been transacted at the meeting as originally called.

4.14 The Presiding Officer. The President of the Association, or in his or her absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by a majority of the Directors participating in the meeting.

4.15 Compensation of Directors and Officers. Directors and Officers shall not receive compensation for their services as such. Directors and Officers may be reimbursed for all actual and proper out-of-pocket expenses, as determined by the Board of Directors, relating to the proper discharge of their respective duties.

4.16 Committees. The Board of Directors may appoint from time to time such standing or temporary committees as the Board of Directors deems necessary and convenient for the efficient and effective operation of the Condominium. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. Meetings of a committee to take final action on behalf of the Board of Directors or make recommendations to the Board of Directors regarding the Association budget shall be open to attendance by any Unit Owner, and notice of such committee meetings shall be posted in the same manner as required in Section 4.9 above for Board of Directors meetings, including by broadcast on closed-circuit cable television system serving the Association. All other committees shall not be subject to the requirements of Section 718.112(2)(c) of the Condominium Act, as set forth in Section 4.9 of these

Bylaws, but may voluntarily post notices of their meetings and open such meetings to attendance by the Unit Owners.

4.17 Order of Business/Agenda. The order of business and agenda at all regular meetings of the Board of Directors shall be as follows:

- (A) Call to Order.
- (B) Call of the Roll or certification of quorum.
- (C) Proof of Notice and Posting.
- (D) Reading or disposal of any unapproved minutes.
- (E) Reports of Officers and manager, if any.
- (F) Reports of committees, if any.
- (G) Unfinished business **(with the items to be considered specifically listed in the agenda)**.
- (H) New business **(with the items to be considered specifically listed in the agenda)**.
- (I) Adjournment.

4.18 Emergency Powers. In accordance with Section 718.1265 of the Condominium Act, the Board of Directors, in response to damage caused by an event for which a state of emergency is declared pursuant to Section 252.36, Florida Statutes, in the locale in which the Condominium is located, may, but is not required to, exercise the following powers:

(A) Conduct Board of Directors meetings and membership meetings with notice given as is practicable. Such notice may be given in any practicable manner, including publication, radio, United States mail, the Internet, public service announcements, and conspicuous posting on the Condominium Property or any other means the Board of Directors deems reasonable under the circumstances. Notice of Board of Directors decisions may be communicated in the same manner.

(B) Cancel and reschedule any Association meeting.

(C) Name as assistant Officers persons who are not Directors, which assistant Officers shall have the same authority as the executive Officers to whom they are assistants during the state of emergency to accommodate the incapacity or unavailability of any Officer of the Association.

(D) Relocate the Association's principal office or designate alternative principal offices.

(E) Enter into agreements with local counties and municipalities to assist counties and municipalities with debris removal.

(F) Implement a disaster plan before or immediately following the event for which a state of emergency is declared which may include, but is not limited to, shutting down or off electricity, water, sewer, security systems or air conditioners.

(G) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board of Directors, determine any portion of the Condominium Property unavailable for entry or occupancy by Unit Owners, Family members, Tenants, Guests, agents, or invitees to protect the health, safety, or welfare of such persons.

(H) Require the evacuation of the Condominium Property in the event of a mandatory evacuation order in the locale in which the Condominium is located. Should any Unit Owner or other

occupant fail or refuse to evacuate the Condominium Property where the Board of Directors has required evacuation, the Association shall be immune from liability or injury to persons or property arising from such failure or refusal.

(I) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board of Directors, determine whether the Condominium Property can be safely inhabited or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the Declaration.

(J) Mitigate further damage, including taking action to contract for the removal of debris and to prevent or mitigate the spread of fungus, including, but not limited to, mold or mildew, by removing and disposing of wet drywall, insulation, carpet, cabinetry, or other fixtures on or within the Condominium Property, even if the Unit Owner is obligated by the Declaration or law to insure or replace those fixtures and to remove personal property from a Unit.

(K) Contract, on behalf of any Unit Owner(s) for items or services for which the Unit Owner(s) are otherwise individually responsible, but which are necessary to prevent further damage to the Condominium Property. In such event, the Unit Owner(s) on whose behalf the Board of Directors has contracted are responsible for reimbursing the Association for the actual costs of the items or services, and the Association may use its lien authority provided by Section 718.116 of the Condominium Act to enforce collection of the charges. Without limitation, such items or services may include the drying of Units, the boarding of broken windows or doors, and the replacement of damaged air conditioners or air handlers to provide climate control in the Units or other portions of the property.

(L) Levy Special Assessments without a vote of the Unit Owners.

(M) Without Unit Owners' approval, borrow money and pledge Association assets as collateral to fund emergency repairs and carry out the duties of the Association when operating funds are insufficient. This paragraph does not limit the general authority of the Association to borrow money.

The special powers authorized in this Section 4.18 shall be limited to that time reasonably necessary to protect the health, safety, and welfare of the Association and the Unit Owners and the Unit Owners' Family members, Tenants, Guests, agents, or invitees and shall be reasonably necessary to mitigate further damage and make emergency repairs.

## 5. OFFICERS.

5.1 Officers and Elections. The Officers of the Association shall be a President and Vice-President (both of whom shall be Directors), a Secretary and Treasurer, all of whom shall be elected annually by the Board of Directors. Any Officer may be removed with or without cause by a majority of all Directors at any meeting of the Board of Directors. Any person other than the President may hold 2 or more offices. The Board of Directors may, from time to time, appoint such other Officers, and designate their powers and duties, as the Board of Directors shall find to be required to manage the affairs of the Association. If the Board of Directors so determines, there may be additional Vice Presidents who are not Directors. An Officer more than 90 days delinquent in the payment of any monetary obligation owed to the Association shall be deemed to have abandoned the office, creating a vacancy in the office to be filled according to Florida law. An Officer charged by information or indictment with a felony theft or embezzlement offense involving the Association's funds or property must be removed from office, creating a vacancy in the office to be filled according to Florida law until the end of the period of the



suspension or the end of the Officer's term of office, whichever occurs first. While such Officer has such criminal charge pending, he or she may not be appointed or elected to a position as an Officer. However, if the charges are resolved without a finding of guilt, the Officer shall be reinstated for the remainder of his or her term of office, if any.

5.2 President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the Members and Directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board of Directors are carried into effect. The President shall execute bonds, mortgages and other contracts requiring seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other Officer or agent of the Association.

5.3 Vice-Presidents. The Vice-Presidents in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President. They shall perform such other duties as the Board of Directors shall assign.

5.4 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the Members and shall cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for the purpose, and shall perform like duties for the standing committees when required. The Secretary shall give, or cause to be given, notice of all meetings of the Members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or the President. The Secretary shall keep in safe custody the seal of the Association and, when authorized by the Board of Directors, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the Condominium Documents. Any of the foregoing duties may be performed by an Assistant Secretary, if any has been designated.

5.5 Treasurer. The Treasurer shall be responsible for Association funds and securities, the keeping of full and accurate amounts of receipts and disbursements in books belonging to the Association, and the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. The Treasurer shall oversee the disbursement of the funds of the Association, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at the meetings of the Board of Directors, or whenever they may require it, an accounting of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated.

6. FISCAL MATTERS. The provisions for fiscal management of the Association set forth in the Declaration of Condominium shall be supplemented by the following provisions:

6.1 Depository. The Association shall maintain its funds in such financial institutions (which are federally insured or subject to SIPC) authorized to do business in the State of Florida as shall be designated from time to time by the Board of Directors. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board of Directors. The Board of Directors, or its designee, may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities, FDIC backed investments, and other similar investment vehicles. All Association funds shall be maintained separately in the Association's name. A manager or business entity required to be licensed or registered under Section 468.432, Florida Statutes, or an agent, employee, Officer, or Director of the Association, shall not commingle any Association funds with his or her funds or with the funds of any other condominium association or the funds of a community association as defined in Section 468.431, Florida Statutes. The Association shall provide an annual report to the Department of

Business & Professional Regulation containing the names of all of the financial institutions with which it maintains accounts, and a copy of such report may be obtained from the Department of Business & Professional Regulation upon written request of any Member.

6.2 Budget. The Board of Directors shall adopt a budget of estimated revenues and expenses for each fiscal year. A copy of the proposed budget and a notice stating the time, date and place of the meeting of the Board of Directors at which the budget will be adopted shall be mailed, hand-delivered or electronically transmitted (to those Unit Owners who have so consented) to the Owner of each Unit not less than 14 days prior to that meeting. The proposed budget shall be detailed and shall show the amounts budgeted by income and expense classifications in the form and manner required by Sections 718.112(2)(f) and 718.504 (21) of the Condominium Act, as the same may be amended from time to time. The Board of Directors shall follow the same procedures outlined above in the event that it wishes to amend an already approved budget for the remainder of the fiscal year.

6.2.1 Member Rejection of Budget. If an annual budget adopted by the Board of Directors requires an Assessment against the Unit Owners in any fiscal year exceeding 115% of the Assessment for the previous fiscal year, the Board of Directors shall conduct a special Members' meeting to consider a substitute budget if the Board of Directors receives, within 21 days after adoption of the annual budget, a written request for a special Members' meeting from at least 10% of the Voting Interests. The special meeting shall be conducted within 60 days after adoption of the annual budget. At least 14 days prior to such special meeting, the Board of Directors shall provide each Unit Owner a notice of the meeting. Unit Owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a majority of all Voting Interests. If there is not a quorum at the special meeting or a substitute budget is not adopted, the annual budget previously adopted by the Board of Directors shall take effect as scheduled. Provisions for reasonable reserves for repair or replacement of the Condominium Property, anticipated expenses which the Board of Directors does not expect to be incurred on a regular or annual basis or Assessments for betterments to the Condominium Property shall be excluded from the computation in determining whether Assessments exceed 115% of Assessments for the prior fiscal year.

6.3 Statutory Reserves for Capital Expenditures and Deferred Maintenance. In addition to annual operating expenses, each proposed budget must include reserve accounts for capital expenditures and deferred maintenance as required by Section 718.112(2)(f) of the Condominium Act. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance or replacement cost, and any other item located in the Common Elements or Association Property for which the deferred maintenance expense or replacement cost exceeds \$10,000.00. The amount to be reserved must be computed using a formula based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The Association may adjust replacement reserve Assessments annually to take into account any changes in estimates of costs or changes in the useful life of a reserve item caused by capital expenditure or deferred maintenance. These reserves shall be funded unless the Members determine by a majority vote at a duly called meeting of the Members, to fund no reserves or less reserves than required by Section 718.112(2)(f) of the Condominium Act. The Board of Directors may schedule its budget meeting to occur immediately after the adjournment of a membership meeting held for purposes of voting on reserve funding for the subsequent fiscal year. Reserves funded under this Section 6.3, and all interest earned on such reserves, shall not be commingled with operating funds (unless combined for investment purposes), and may be used only for the purposes for which they were reserved, unless their use for other purposes is approved in advance by a majority vote at a Members' meeting called for that purpose. Proxy questions relating to waiving or reducing the funding of reserves or using existing reserve funds for purposes other than purposes for which the reserves were intended must contain the following statement in capitalized, bold letters in a font size larger than any other used on the face of the proxy ballot: **WAIVING OF**

**RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.**

Operating and reserve funds may be invested in combined accounts, but such funds shall be accounted for separately, and the combined account balance may not, at any time, be less than the amount identified as reserve funds. Operating and reserve funds may be combined in the quarterly Assessment paid by Unit Owners, provided that the operating and reserve funds are segregated within 30 days after receipt (unless combined for investment purposes).

6.4 Contingency Funds. The Board of Directors may establish one or more "contingency funds" for contingencies and operating expenses. The purpose of these contingency funds is to provide financial stability and to avoid the need for Special Assessments on a frequent basis. The amounts proposed to be so funded shall be shown in the proposed annual budget as a line item in the operating portion of the budget. These funds may be spent for any purpose approved by the Board. Contingency funds that are not restricted as to use are not reserves.

6.5 Assessments. Regular annual Assessments based on the adopted budget shall be paid in quarterly installments, in advance, on the first day of January, April, July and October of each year. Written notice of each quarterly installment shall be sent to the Members at least 15 days prior to the due date. Failure to send or receive notice of Assessments shall not excuse the obligation to pay. If an annual budget has not been adopted at the time the first installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last installment of the previous fiscal year and shall be continued at such rate until a budget is adopted and pro rata Assessments are calculated, at which time any overage or shortage shall be added or subtracted from each Unit's next due installment.

6.6 Special Assessments. Special Assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted, or non-recurring expenses. Special Assessments are due on the day specified in the resolution of the Board of Directors approving such Special Assessments. The total of all Special Assessments coming due in any fiscal year shall not exceed 15% of the total annual budget for that year, including reserves, unless a majority of the Voting Interests first consent. Written notice of any Board of Directors meeting at which a non-emergency Special Assessment will be considered, must be mailed, hand-delivered, or electronically transmitted (in the latter case, to those Unit Owners who have so consented) to all Unit Owners and posted conspicuously on the Condominium Property at least 14 days in advance, which notice shall state that Special Assessments will be considered and the nature, estimated cost, and the purpose(s) for such Special Assessments, as required by Section 718.112(2)(c) of the Condominium Act. The notice to Unit Owners that any Special Assessment has been levied must contain a statement of the purpose(s) of the Special Assessment, and the funds collected must be spent for the stated purpose(s), as required by Section 718.116(10) of the Condominium Act. If any funds remain upon completion of the purpose(s) such excess funds may, at the discretion of the Board of Directors, either be returned to the Unit Owners or applied as a credit towards future Assessments.

6.7 Fidelity Bonds. The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse Association funds. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time, or the maximum amount required by law. The term "persons who control or disburse Association funds", includes, but is not limited to those individuals authorized to sign checks and the President, Secretary and Treasurer of the Association. The Association shall bear the cost of bonding.

6.8 Financial Report. Within 90 days after the end of the fiscal year, the Association shall prepare and complete, or cause to be prepared and completed by a third party, a financial report for the

preceding fiscal year. However, the Board of Directors may determine in its discretion to prepare and complete, or cause to be prepared and completed by a third party, a more rigorous financial report than otherwise required pursuant to the Condominium Act. Within 21 days after the financial report is completed or received from the third party, but not later than 120 days after the end of the fiscal year, the Association shall mail or hand deliver to each Unit Owner a copy of the most recent financial report or a notice that a copy of the most recent financial report will be mailed or hand delivered to the Unit Owner, without charge, within 5 business days after receipt of a written request from the Unit Owner. A Unit Owner may provide written notice to the Division of Florida Condominiums, Timeshares and Mobile Homes ("Division") of the Association's failure to mail or hand deliver him or her a copy of the most recent financial report within such 5 business days. If the Division determines that the Association failed to mail or hand deliver a copy of the most recent financial report to the Unit Owner, the Division shall provide written notice to the Association that it must comply with such statutory requirement within 5 business days after it receives such notice from the Division. If the Association fails to comply with the Division's request, it may not waive the financial reporting requirements in the Condominium Act for the fiscal year in which the Unit Owner's request was made and the following fiscal year. Notwithstanding the foregoing in this Section 6.8, if, if approved by a majority of the Voting Interests present at a properly called Members' meeting, the Association may complete, or caused to be completed, a less rigorous financial report than otherwise required pursuant to Section 718.111(13) of the Condominium Act. Such meeting and approval must occur before the end of the fiscal year and is effective only for the fiscal year in which the vote is taken, except that the approval may also be effective for the following fiscal year.

6.9 Fiscal Year. The fiscal year shall be January 1-December 31, unless modified by the Board of Directors in accordance with IRS regulations.

7. RULES AND REGULATIONS; USE RESTRICTIONS. The Board of Directors may, from time to time, adopt and amend Rules and Regulations governing the use, maintenance, management and control of the Common Elements and the operation of the Association. Copies of such Rules and Regulations shall be furnished to each Unit Owner. Rules and Regulations created and imposed by the Board of Directors must be rationally related to a legitimate Association purpose. The Rules and Regulations may not conflict with the rights of Unit Owners as provided in the Declaration or reasonably inferable therefrom, nor may they conflict with the Condominium Act. Rules regarding Unit use shall be adopted by the Board of Directors as set forth in Section 4.9 above.

8. COMPLIANCE AND DEFAULT; REMEDIES. In addition to the remedies provided elsewhere in the Condominium Documents, the following provisions shall apply:

8.1 Fines and Suspensions.

(A) The Association may suspend, for a reasonable period of time, the right of a Unit Owner, or a Unit Owner's Tenant, Guest, or invitee, to use the Common Elements, common facilities, or any other Association Property for failure to comply with any provision of the Condominium Documents. This paragraph does not apply to Limited Common Elements intended to be used only by that Unit, Common Elements needed to access the Unit, utility services provided to the Unit, parking spaces, or elevators. The Board of Directors may levy reasonable fines for the failure of the Owner of the Unit, or its occupant, licensee or invitee to comply with any provision of the Condominium Documents. The fines shall be in an amount deemed necessary by the Board of Directors to deter future violations. Unless the Condominium Act is amended: (i) a fine may not exceed \$100.00 per violation (except that a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing); (ii) a fine may not in the aggregate exceed \$1,000.00; and (iii) a fine may not become a lien against a Unit.

(B) A fine may not be levied and a suspension may not be imposed by the Board of Directors pursuant to subsection (A) above unless the Board of Directors provides at least 14 days written notice to the Unit Owner and, if applicable, any occupant, licensee or invitee of the Unit Owner sought to be fined or suspended and an opportunity for a hearing before a committee of at least 3 Members appointed by the Board of Directors who are not Officers, Directors or employees of the Association, or the spouse, parent, child, brother or sister of an Officer, Director or employee. If the committee does not approve the proposed fine or suspension by majority vote, the fine or suspension may not be imposed. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the Board of Directors. If the proposed fine or suspension is approved by the committee, the fine payment is due 5 days after the date of the committee meeting at which the fine is approved. The Association must provide written notice of such fine or suspension by mail or hand delivery to the Unit Owner and, if applicable, to any Tenant, licensee or invitee of the Unit Owner.

(C) The Association may suspend the voting rights of a Unit Owner or Member due to non-payment of any fee, fine, or other monetary obligation due to the Association which is more than \$1,000.00 and more than 90 days delinquent. Proof of such obligation must be provided to the Unit Owner 30 days before such suspension takes effect. The suspension ends upon full payment of all obligations currently due or overdue the Association. A Voting Interest or consent right allocated to a Unit Owner or Member which has been suspended by the Association shall be subtracted from the total number of Voting Interests in the Association, which shall be reduced by the number of suspended Voting Interests when calculating the total percentage or number of all Voting Interests available to take or approve any action, and the suspended Voting Interests shall not be considered for any purpose, including, but not limited to, the percentage or number of Voting Interests necessary to constitute a quorum, the percentage or number of Voting Interests required to conduct an election, or the percentage or number of Voting Interests required to approve an action under the Condominium Act or pursuant to the Condominium Documents.

(D) If a Unit Owner is more than 90 days delinquent in paying a fee, fine or other monetary obligation due to the Association, the Association may suspend the right of the Unit Owner or the Unit's occupant, licensee, or invitee to use Common Elements, common facilities, or any other Association Property until the fee, fine or other monetary obligation is paid in full. This subsection does not apply to Limited Common Elements intended to be used only by that Unit, Common Elements needed to access the Unit, utility services provided to the Unit, parking spaces, or elevators.

(E) All suspensions imposed pursuant to subsections (C) and (D) above must be approved at a properly noticed meeting of the Board of Directors. Upon approval, the Association must notify the Unit Owner, and, if applicable, the Unit's occupant, licensee or invitee by mail or hand-delivery.

(F) The suspensions permitted by (A), (C) and (D) apply to a Member, and, when appropriate, the Member's Tenants, Guests or invitees, even if the delinquency or failure that resulted in the suspension arose from less than all of the multiple Units owned by a Member.

8.2 Mandatory Non-Binding Arbitration. In the event of any "dispute", as defined in Section 718.1255 of the Condominium Act, between a Unit Owner and the Association, the parties must submit the dispute to mandatory non-binding arbitration under the rules of the Division prior to filing suit in Collier County over the disputed matters. As set forth in the Condominium Act, the term "dispute" does not include any disagreement that primarily involves title to any Unit or Common Element; the interpretation of enforcement of any warranty; the levy of a fee or Assessment, or the collection of an Assessment levied against a party; the eviction or other removal of a Tenant from a Unit; alleged breaches of fiduciary duty by

one or more Directors; or claims for damages to a Unit based upon the alleged failure of the Association to maintain the Common Elements or Condominium Property.

**9. AMENDMENT OF BYLAWS.** Amendments to these Bylaws shall be proposed and adopted in the following manner:

9.1 Proposal. Amendments to these Bylaws may be proposed by the Board of Directors or by written petition to the Board of Directors signed by least 25% of the Voting Interests.

9.2 Procedure. Upon any amendment being proposed as provided above, the proposed amendment shall be submitted to a vote of the Members not later than the next annual meeting for which proper notice can still be given. The text of the proposed amendment shall accompany the notice of meeting or a notice that a vote will occur by written consents in lieu of a meeting. A proposed amendment shall contain the full text of the language with proposed new words in the text underlined and words to be deleted lined through with hyphens, unless the proposed change is so extensive that this procedure would hinder rather than assist the understanding of the proposed amendment. In the latter case, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Bylaws. See Bylaws, Section \_\_\_ for present text."

9.3 Vote Required. Except as otherwise provided by law, or by specific provision of these Bylaws, a proposed amendment to these Bylaws shall be adopted if it is approved by at least 2/3 of the Voting Interests who are present and voting (in person or by proxy), at an annual or special Members' meeting at which a quorum has been established, provided that notice of the proposed amendment has been given to the Members in accordance with the Condominium Act and these Bylaws. These Bylaws shall be deemed amended by virtue of revisions to statutes and regulations which control over conflicting provisions of these Bylaws. The Board of Directors shall have the authority to amend these Bylaws in order to conform the provisions thereof with such revisions to statutes and regulations. In addition, the Board of Directors may amend these Bylaws to correct scrivener's errors or omissions, and amend and restate these Bylaws in order to consolidate into one document amendments previously adopted by the Members or the Board of Directors. Amendments adopted by the Board of Directors shall occur at a duly noticed Board of Directors meeting (with adoption of the amendments set forth on the agenda).

9.4 Certificate; Recording. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Bylaws, which certificate shall be in the form required by law and shall be executed by the President or Vice-President with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Collier County, Florida.

**10. OFFICIAL RECORDS.**

10.1 Maintenance of Official Records. The Association shall maintain all of the following items, if applicable, that are required to be maintained as "official records" pursuant to Section 718.111(12) of the Condominium Act:

(A) A copy of the plans, permits, warranties, and other items provided by the developer of the Condominium pursuant to Section 718.301(4) of the Condominium Act.

(B) A copy of the recorded Declaration and Bylaws; a certified copy of the Articles of Incorporation; and a copy of all amendments to the foregoing documents.

- (C) A copy of the current Rules and Regulations.
  - (D) A book or books that contain the minutes of all meetings of the Members and the Board of Directors.
  - (E) A current roster of all Unit Owners and their mailing addresses, Unit identifications, and, if known, telephone numbers. The Association shall also maintain the electronic mailing addresses and facsimile numbers of Unit Owners consenting to receive notice by electronic transmission. The electronic mailing addresses and facsimile numbers are not accessible to Unit Owners if consent to receive notice by electronic transmission is not provided. The electronic mailing addresses and facsimile numbers of a Unit Owner shall be removed from the Association's official records when consent to receive notice by electronic transmission is revoked. However, the Association is not liable for an inadvertent disclosure of the electronic mail address or facsimile number for receiving electronic transmission of notices.
  - (F) All current Association insurance policies.
  - (G) A current copy of any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility.
  - (H) Bills of sale or transfer for all Association owned property, which shall be retained indefinitely.
  - (I) Accounting records. The accounting records must include, but are not limited to:
    - (1) Accurate, itemized and detailed records of all receipts and expenditures.
    - (2) A current account and a monthly, bimonthly or quarterly statement of the account for each Unit designating the name of the Unit Owner, the due date and amount of each Assessment, the amount paid on the account, and the balance due.
    - (3) All Association audits, reviews, accounting statements, and financial reports.
    - (4) All contracts for work to be performed. Bids for materials, equipment, services or work to be performed and for materials, equipment or services are also considered official records and must be maintained by the Association.
- Any person who knowingly or intentionally defaces or destroys such accounting records, or who knowingly or intentionally fails to create or maintain such records with the intent of causing harm to the Association or one or more of its Members, is personally subject to a civil penalty pursuant to Section 718.501(1)(d) of the Condominium Act.
- (J) Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by Unit Owners, which must be maintained for one year from the date of the election, vote, or meeting to which the document relates.
  - (K) A copy of the current Question and Answer Sheet as described in Section 718.504 of the Condominium Act.
  - (L) All other written Association records not specifically included in the foregoing list which

are related to the Association's operations.

The official records specified in subsections (A) through (D) above shall be permanently maintained from the inception of the Association. Except as otherwise provided above and by the Condominium Act, all official records must be retained for at least 7 years, unless otherwise provided by general law. The Association may elect to maintain records in excess of the time periods required by the Condominium Act if deemed desirable by the Board of Directors.

10.2 Access to Official Records. The Association's official records are open to inspection by any Member or the authorized representative of such Member at all reasonable times within 45 miles of the Condominium Property or within Collier County within 10 working days after receipt of a written request by the Board of Directors or its designee. The Association may comply with this requirement by having a copy of the official records available for inspection or copying on the Condominium Property or Association Property, or the Association may offer the option of making the official records available electronically via the Internet or by allowing the official records to be viewed in electronic format on a computer screen and printed upon request. The Association is not responsible for the use or misuse of the information provided to a Member or his or her authorized representative pursuant to the compliance requirements of the Condominium Act unless the Association has an affirmative obligation not to disclose such information pursuant to the Condominium Act. The right to inspect the records includes the right to make or obtain copies, at the expense, if any, of the Member or authorized representative of the Member. A Tenant has the right to inspect and copy these Bylaws and the Rules and Regulations. The Board of Directors may adopt reasonable Rules and Regulations regarding the frequency, time, location, notice and manner of record inspections and copying. The Association's failure to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the Association willfully failed to comply with this Section. A Unit Owner who is denied access to official records is entitled to the actual damages or minimum damages for the Association's willful failure to comply with this Section. The failure to permit inspection of the official records entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the records, who, directly or indirectly, knowingly denied access to the records for inspection. The Association shall maintain on the Condominium Property an adequate number of copies of the Condominium Documents, as well as the Question and Answer sheet and year-end financial information required by Section 718.112 of the Condominium Act to ensure their availability to Unit Owners and prospective purchasers. The Association may charge its actual costs for preparing and furnishing these documents to those requesting the same. The Association shall allow a Member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the Association providing the Member or his or her authorized representative with a copy of such records. The Association may not charge for the use of a portable device.

10.3 Official Records Exempt from Inspection and Copying. The following records shall not be accessible to Unit Owners:

(A) Any record protected by the lawyer-client privilege as described in Section 90.502, Florida Statutes; and any record protected by the work-product privilege, including any record prepared by an Association attorney or prepared at the attorney's express direction; which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the Association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of such civil or criminal litigation or proceedings until the conclusion of the litigation or proceedings.



(B) Information obtained by the Association in connection with the approval of the lease, sale or other transfer of a Unit.

(C) Personnel records of Association or management company employees, including, but not limited to, disciplinary, payroll, health and insurance records. For purposes of this subsection (C), the term "personnel records" does not include written employment agreements with an Association employee or management company, or budgetary or financial records that indicate the compensation paid to an Association employee.

(D) Medical records of Unit Owners.

(E) Social security numbers, driver's license numbers, credit card numbers, electronic mail addresses, telephone numbers, facsimile numbers, emergency contact information, any addresses of a Unit Owner other than as provided to fulfill the Association's notice requirements, and other personal identifying information of any person, excluding the person's name, Unit designation, mailing address, property address, and any address, e-mail address or facsimile number provided to the Association to fulfill the Association's notice requirements. Notwithstanding the restrictions in this subsection (E), the Association may print and distribute to Unit Owners a directory containing the name, parcel address and telephone numbers of each Unit Owner. However, a Unit Owner may exclude his or her telephone number from the directory by so requesting in writing to the Association. A Unit Owner may consent in writing to the disclosure of other contact information described in this subsection (E). The Association is not liable for the inadvertent disclosure of information that is protected under this subsection (E) if the information is included in an official record of the Association and is voluntarily provided by a Unit Owner and not requested by the Association.

(F) Electronic security measures that are used by the Association to safeguard data, including passwords.

(G) The software and operating system used by the Association which allow the manipulation of data, even if the Unit Owner owns a copy of the same software used by the Association. The data is part of the official records of the Association.

**11. COMPETITIVE BIDDING.**

11.1 Requirements. All contracts as further described below or any contract that is not to be fully performed within one year after the making thereof, for the purchase, lease, or renting of materials or equipment to be used by the Association in accomplishing its purposes under the Condominium Act, and all contracts for the provision of services, shall be in writing. If a contract for the purchase, lease, or renting of materials or equipment, or for the provision of services, requires payment by the Association in the aggregate that exceeds 5% of the total annual budget of the Association, including reserves, the Association shall obtain competitive bids for the materials, equipment, or services. Nothing contained herein shall be construed to require the Association to accept the lowest bid.

11.2 Conflicts of Interest. Conflicts of interests of Directors and Officers, and relatives of Directors and Officers, and contracts and other transactions between the Association and one or more of its Directors, Officers, their relatives or entities in which one or more Directors or Officers or their relatives are financially interested are subject to Sections 718.112(2)(p) and 718.3027 of the Condominium Act. As used in this Section 11.2, the term "relative" means a relative within the third degree of consanguinity by blood or marriage.

11.3 Exceptions. Notwithstanding the foregoing, contracts with employees of the Association, and contracts for an attorney, accountant, architect, community association manager, engineering and landscape architect services are not subject to the provisions of Section 11.1 above.

11.4 Emergency. Nothing contained in Section 11.1 above is intended to limit the ability of the Association to obtain needed products and services in an emergency.

11.5 Sole Source of Supply. Section 11.1 above shall not apply if the business entity with which the Association desires to enter into a contract is the only source of supply within Collier County.

## 12. MISCELLANEOUS.

12.1 Gender. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

12.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

12.3 Conflict. If there is a conflict between any provision of these Bylaws and the Condominium Act, the Condominium Act shall control. If there is a conflict with respect to the interpretation of these Bylaws and the Declaration of Condominium or Articles of Incorporation, the provisions of the Declaration and the Articles of Incorporation shall prevail over the provisions of these Bylaws.

12.4 Certificate of Compliance. In accordance with Section 718.112(2)(l) of the Condominium Act, a Certificate of Compliance from a licensed electrical contractor or electrician may be accepted by the Board of Directors as evidence of compliance of the Units to the applicable fire and life safety code.

12.5 Limited Power to Convey Portion of Common Elements. In accordance with Section 718.112(2)(m) of the Condominium, the Association shall have a limited power to convey a portion of the Common Elements to a condemning authority for the purpose of providing utility easements, right-of way expansion or other public purposes, whether negotiated or as a result of eminent domain proceedings.