

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

**SECOND AMENDED AND RESTATED ARTICLES OF INCORPORATION  
OF  
GULF WINDS EAST CONDOMINIUM ASSOCIATION, INC.**

Pursuant to Chapter 617, Florida Statutes, the Articles of Incorporation of Gulf Winds East Condominium Association, Inc., a Florida corporation not for profit, incorporated on November 6, 1980, are hereby amended and restated in their entirety. All amendments included herein have been adopted pursuant to Chapter 617, 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 and the omission of matters of historical interest. All terms in these Second Amended and Restated Articles that are defined terms in the Second Amended and Restated Declaration of Condominium of even date herewith, shall have the same meaning as set forth in said Declaration.

The Declaration of Condominium of Gulf Winds East, a condominium was originally recorded in Official Records Book 509, Page 165, Public Records of Collier County, Florida, and was thereafter amended by that certain Amendment recorded in Book 939, Page 1171 of the Public Records of Collier County, Florida and was thereafter amended by that certain Amendment recorded in Book 3563, Page 980 of the Public Records of Collier County, Florida

The Second Amended and Restated Articles of Incorporation shall henceforth be as follows:

**ARTICLE I**

NAME: The name of the corporation, herein called the "Association", is GULF WINDS EAST CONDOMINIUM ASSOCIATION, INC., and its address is 1020 Manatee Road, Naples, Florida 34114, as may be changed by the Board from time to time.

**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 Gulf Winds East, 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 earning of the Association shall be distributed or inure 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 and of a condominium association under the Florida Condominium Act, except as expressly limited or modified by these Articles, the Declaration of Condominium, and the Bylaws; and it shall have all of the powers and duties reasonably necessary to operate the Condominium pursuant to the

condominium documents as they 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 and Association property.
- (C) To purchase insurance for the protection of the Association and its members.
- (D) To repair and 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 operation of the Association and the use, maintenance, occupancy, alteration, transfer and appearance of units, common elements and limited common elements, subject to any limits set forth in the Declaration of Condominium.
- (F) To enforce the provisions of the Condominium Act, the Declaration of Condominium, these Articles, the Bylaws and any Rules and Regulations of the Association.
- (G) 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 law or by the Declaration of Condominium to be exercised by the Board of Directors or the membership of the Association.
- (H) To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Condominium.
- (I) To borrow money and encumber the Association's assets and property as necessary to perform its other functions hereunder.
- (J) To grant, modify or move any easement in the manner provided in the Declaration of Condominium.

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 the Condominium, these Articles of Incorporation and the Bylaws.

### **ARTICLE III**

#### **MEMBERSHIP:**

- (A) The members of the Association shall be the record owners of a fee simple interest in 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.

### **ARTICLE IV**

**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 not less than three (3) and no more than seven (7) Directors. Directors must be members of the Association, or the spouse, parent or child of a member, if occupying the Unit. The number of Directors may be increased or decreased by a majority of members present and voting at the Association's annual meeting, but in any event the number of Directors shall never be less than three (3) or greater than seven (7).
- (B) Directors of the Association shall be elected by the members in the manner determined by the Bylaws. 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 a written petition to the Board, signed by at least one-fourth (1/4th) of the voting interests of the Association.
- (B) Procedure. Upon any amendment to these Articles being proposed by said Board or members, such 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 Florida law, a proposed amendment shall be adopted if it is approved by at least two-thirds (2/3) of the voting interests of the Association voting in person or by proxy at any annual or special meeting called for the purpose. Notwithstanding the previous sentence, the amendment will not be deemed approved without at least a majority of the total voting interests in the Association voting in favor. The Board of Directors may amend these Articles to correct scrivener's errors or omissions, and amend and restate the Articles in order to consolidate into one document amendments previously adopted by the members or the Board. Amendments adopted by the Board shall occur at a duly noticed Board meeting (with adoption of the amendments set forth on the agenda).
- (D) Effective Date. An amendment shall become effective upon filing with the Secretary of State and recording a Certificate of Amendment in the Public Records of Collier County, Florida, with the formalities required by the Condominium Act.

## ARTICLE VIII INDEMNIFICATION

- (A) Indemnity. The Association shall indemnify any officer, Director, or committee member who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a Director, officer, or committee member of the Association, against expenses (including attorney's fees and appellate attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, unless (i) a court of competent jurisdiction finally determines, after all appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (ii) such court also determines specifically that indemnification should

be denied. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. It is the intent of the membership of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to their officers, Directors, and committee members as permitted by Florida law.

- (B) Defense. To the extent that a Director, officer, or committee member of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section (A) above, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees and appellate attorney's fees) actually and reasonably incurred by him in connection therewith.
- (C) Advances. Expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the affected Director, officer, or committee member to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized by this Article VIII.
- (D) Miscellaneous. The indemnification provided by this Article VIII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of members, or otherwise, and shall continue as to a person who has ceased to be a Director, officer, or committee member and shall inure to the benefit of the heirs and personal representatives of such person.
- (E) Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, committee member, employee, or agent of the Association, or a Director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.
- (F) Amendment. Anything to the contrary herein notwithstanding, the provisions of this Article VIII may not be amended without the approval in writing of all persons whose interest would be adversely affected by such amendment.

## ARTICLE IX

REGISTERED OFFICE AND REGISTERED AGENT: The street address of the registered office of the Association is Adamczyk Law Firm, PLLC, 9130 Galleria Court, Suite 201, Naples, Florida 34109, and the registered agent of the Association at that address shall be Mark E. Adamczyk, Esq.

The undersigned hereby accepts the designation of Registered Agent as set forth in Article IX of these Articles of Incorporation and acknowledges that he is familiar with and accepts the obligations imposed upon registered agents under the Florida Not For Profit Corporation Act.

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Mark E. Adamczyk, Esq., Registered Agent

[signatures /articles to be added after approval]

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

**SECOND AMENDED AND RESTATED DECLARATION OF CONDOMINIUM**

**FOR**

**GULF WINDS EAST, A CONDOMINIUM**

**KNOW ALL MEN BY THESE PRESENTS:**

That heretofore, the original Declaration of Condominium of Gulf Winds East, a Condominium (hereinafter the "Condominium") was recorded in Official Record Book 508, at Page 165, et. seq., of the Official Records of Collier County, Florida. That Declaration was thereafter amended by that certain Amendment recorded in Book 939, Page 1171 of the Public Records of Collier County, Florida. That Declaration was amended and restated in that certain Amended and Restated Declaration of Condominium, recorded at Official Record Book 3563, at Page 981, et. seq., of the Official Records of Collier County, Florida. That Declaration of Condominium, as amended and restated, is hereby further amended and is restated in its entirety.

1. SUBMISSION TO CONDOMINIUM OWNERSHIP: This Second Amended and Restated Declaration of Condominium (hereinafter, the "Declaration") is made by Gulf Winds East Condominium Association, Inc., a Florida Corporation not for profit (hereinafter the "Association"). The land subject to this Declaration and the improvements located thereon have already been submitted and are hereby re-submitted to condominium ownership and use pursuant to Chapter 718, Florida Statutes (the "Condominium Act"), as that statute is amended from time to time. 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 Units. 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 this condominium is GULF WINDS EAST, a CONDOMINIUM. The official corporate address for the Condominium is 1020 Manatee Road, Naples, Florida 34114.
3. DESCRIPTION OF CONDOMINIUM PROPERTY. The land, which was part of the original Condominium, and each phase added thereto by the developers to create the Condominium Property, is described in composite Exhibit "A" ("Land") attached hereto and made a part hereof.
4. DEFINITIONS. In addition to the definitions set out in the Condominium Act the following is the meaning of terms used in this document:
  - 4.1. Act or Condominium Act means the Florida Condominium Act, Chapter 718, Florida

Statutes, as it may be amended from time to time.

- 4.2. Apartment, Unit or Condominium Unit means and refers to that portion of the Condominium Property which is subject to the exclusive ownership and is referred herein to each of the separate and identified Units delineated on the Condominium Plat (as hereafter defined). The physical boundaries of each Unit are as delineated in the Condominium Plat and are as more particularly described in Section 5.2 of the Declaration.
- 4.3. Apartment Owner, Unit Owner or Owner refers to the record Owner of fee simple title to each Unit, as further defined in the Condominium Act. In cases where a primary occupant has been designated because of its ownership, the word "Owner" refers to the primary occupant and not the record Owner.
- 4.4. Articles mean the Second Amended and Restated Articles of Incorporation, attached hereto as Exhibit "C" and incorporated herein by reference, and any amendments thereto.
- 4.5. Association means Gulf Winds East Condominium Association, Inc., a Florida corporation not for profit, the entity organized under the laws of the State of Florida to manage and operate the Condominium.
- 4.6. Association Property means all property, real or personal, owned or leased by the Association for use by the members.
- 4.7. Assessments means the assessments for which all Unit Owners are obligated to the Association to pay their share in accordance with the schedule attached hereto as Exhibit "E" and include without limitation:
  - 4.7.1. General Assessments, which include, but are not limited to, each Unit Owner's annual share of funds required for the payment of Common Expenses as determined in accordance with the Condominium Documents and Florida law; and
  - 4.7.2. Special Assessments, which include any Common Expenses levied by the Board of Directors, in addition to the annual General Assessments, for unforeseen or unbudgeted expenses, as more particularly set forth in the Bylaws and Section 10 of this Declaration.
  - 4.7.3. Specific Assessments, which include any cost or expense incurred by the Association in connection with a violation of the Condominium Documents, Florida law and/or the rules and regulations by a specific Unit Owner(s), or family, lessee, family, guests or visitors, and which are assessed by the Association against that specific Unit Owner(s) and the Unit, as further provided herein.



- 4.8. Board means Board of Directors of the Association, who are elected in accordance with the Bylaws and are responsible for the Administration of the Association's affairs.
- 4.9. Building means a structure in which certain of the Units and certain of the Common Elements are located on the Condominium Property. There may be more than one building within the Condominium Property.
- 4.10. Bylaws means the Second Amended and Restated Bylaws of the Association, attached hereto as Exhibit "D", and incorporated herein by reference, and any amendments thereto.
- 4.11. Common Elements mean, as further defined herein:
- 4.11.1. ;
- 4.11.2. Easements through the Units for conduit ducts, plumbing, wiring and other facilities for furnishing of utility services to the Units and the Common Elements;
- 4.11.3. An easement of support in every portion of a Unit which contributes to the support of a Building submitted to condominium ownership;
- 4.11.4. Property and installations required for the furnishing of utility services and other services for more than one Unit, the Common Elements, or a Unit other than the Unit containing the installation;
- 4.11.5. Any hallways, foyers, doors, elevators, stairwells, walkways, alarm systems, access systems or security systems not contained within a specific Unit; and
- 4.11.6. Any other parts of the Condominium Property designated as Common Elements pursuant to this Declaration or the Condominium Act.
- 4.12. Common Expenses means expenses for which the Unit Owners are liable to the Association as defined in the Act and as further described in Section 10 of this Declaration.
- 4.13. Common Surplus means the excess of all receipts of the Association collected on behalf of the Association, including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements, over and above the amount of Common Expenses.
- 4.14. Condominium means that the portion of the Land described in Exhibit "A" attached hereto and the improvements thereon having being submitted to condominium ownership pursuant to the original declaration, and all amendments thereto which added phases to the Condominium.

- 4.15. Condominium Documents means in the aggregate this Declaration, the Articles of Incorporation, Bylaws, any Rules and Regulations promulgated by the Association and all of the instruments and documents referred to therein and executed in connection with this Condominium and all amendments to the foregoing.
- 4.16. Condominium Plat means and refers to the plot plan and survey for the Condominium attached the Declaration of Condominium recorded at O.R. Book 508, Page 165, et. seq., Public Records of Collier County, Florida and re-attached as Exhibit "B" to this Declaration.
- 4.17. Condominium Property means the Land submitted to condominium ownership as part of the Condominium and all improvements thereon, including, but not limited to, the Units, Limited Common Elements and Common Elements, subject to the limitations thereof and exclusions therefrom.
- 4.18. County means Collier County, Florida.
- 4.19. Declaration means this document and any amendments or supplements hereto.
- 4.20. Family or Single Family shall refer to any one of the following:
- (A) One natural person.
  - (B) Two or more natural persons who commonly reside together as a single housekeeping unit, each of whom is related by blood, marriage or adoption to each of the others.
  - (C) Two or more natural persons who commonly reside together as a single housekeeping unit, not more than one (1) of whom is unrelated to the others by blood, marriage or adoption.

The reference to "natural" herein is intended to distinguish between an individual and a corporation or other artificial entity.

- 4.21. Guest means any person who is not the Unit Owner or a lessee or a member of the Owner's or lessee's immediate family, who is physically present in, or occupies the Unit at the invitation of the Owner, without the presence of the Owner and without the payment of consideration. Lessees are not allowed to have guests (someone occupying the Unit in the lessee's absence)
- 4.22. Immediate Family are those members of an Owner's or lessee's family that meet the standard business definition of immediate family which includes spouse/domestic partner, parents, grandparents, children (adopted, half and step children are usually included in the definition), grandchildren, siblings, in-laws (mother, father, brother, sister, daughter and son). Other relatives, such as, aunts, uncles, cousins, or others not listed above are not considered to be immediate family.

4.23. Institutional Mortgagee means any lending institution having a mortgage lien upon a Unit, including, but not limited to, any of the following institutions or entities:

- (A) A federal or state savings and loan association or bank doing business in the State of Florida or a life insurance company doing business in the State of Florida which is approved by the Commissioner of Insurance of the State of Florida, or bank or real estate investment trust, or a mortgage banking company, licensed to do business in the State of Florida, or any subsidiary thereof licensed or qualified to make mortgage loans in the State of Florida;
- (B) The Veterans Administration or the Federal Housing Administration or the Department of Urban Development or other lenders generally recognized in the Community as institutional lender;
- (C) Such other Lenders as the Board of Directors shall hereafter designate as such in writing which have acquired a mortgage upon a Unit;
- (D) Any "Secondary Mortgage Market Institution", including Federal National Mortgage Association or the Federal Unit Loan Mortgage Corporation, and such other Secondary Mortgage Market Institution as the Board of Directors shall hereafter designate as such in writing which has acquired a mortgage upon a Unit.

4.24. Interest means the maximum non-usurious interest rate allowed by law on the subject debt or obligation and, if no such rate is designated by law, then eighteen percent (18%) per annum.

4.25. Lease means the grant by a Unit Owner of a temporary right of use of the Owner's Unit for valuable consideration.

4.26. Legal Fees mean:

- (A) Reasonable fees for attorney and paralegal services incurred in negotiation and preparation for litigation, whether or not an action is actually begun, including pre-suit demands or notices, through and including all trial and appellate levels and post-judgement proceedings; and
- (B) Court costs through and including all trial and appellate levels and post-judgement proceedings.
- (C) Any attorneys' fees and/or costs reasonably incurred by the Association in the operation of the Association and/or the Condominium, including but not limited to, attorneys' fees and/or costs incurred by the Association in enforcing any provision of the Governing Documents or the Condominium Act, or in carrying out its duties and obligations under the Governing Documents and/or Fla. Stat.

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- 4.27. Limited Common Element means and refers to certain Common Elements, the use of which is reserved to the Unit or Units to the exclusion of other Units, such portions of the Common Elements as are defined herein and/or shown on the Condominium Plat.
- 4.28. Occupy when used in connection with a Unit, means the act of staying overnight in a Unit.
- 4.29. Occupant is a person who occupies a Unit.
- 4.30. Primary Occupant means the natural person approved for occupancy when title to a Unit is held in the name of two or more persons who are not husband and wife, or by a trustee or a corporation or other entity which is not a natural person.
- 4.31. Public Records means the Public Records of Collier County, Florida.
- 4.32. Rules and Regulations are those rules and regulations, promulgated by the Board of Directors, from time to time and as may be amended, governing the use of common elements, Units and the operation of the Association.
- 4.33. Tenant is a person who leases a condominium Unit.
- 4.34. Visitor is a person (friend, associate, or relatives that are not Immediate Family) that visits short-term ranging from a daily visit to overnight stays (typically one day to less than a month) with the presence of the Owner, lessee or other legally permitted occupant. Members of the Owner's or lessee's immediate family are not considered to be visitors.
- 4.35. 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 one hundred sixty-two (162) Units, so the total number of voting interests is one hundred sixty-two (162) votes.
5. DESCRIPTION OF IMPROVEMENTS: SURVEY AND PLANS.
- 5.1. Survey and Plot Plans. Attached to the amended declaration of condominium for Gulf Winds East and in subsequent amendments thereto for addition of condominium phases, and herein designated as composite Exhibit "B", and incorporated by reference herein, are surveys 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 in the Condominium shall be identified by a separate together with this Declaration, is sufficient in detail to identify the Common Elements and each Unit and their relative locations and dimensions. Furthermore, a Building and Unit Identification List of the Units in the Condominium is attached hereto as Exhibit "F" and hereby incorporated into this Section 5 as if set forth fully herein.

5.2. Unit Boundaries: Each Unit shall include that part of the Building that lies within the following boundaries:

- (A) Any area(s) labeled as a Limited Common Element on the Condominium Plat and contiguous to a Unit or identified as being appurtenant to a Unit, such as, but not necessarily limited to driveways and lanais;
  - (i) Upper Boundaries: The horizontal plane of the unfinished lower surface of the ceiling of a Unit.
  - (ii) Lower Boundaries: The horizontal plane of the unfinished upper surface of the floor of the Unit.
- (B) Perimeter Boundaries: The perimeter boundaries of the Unit shall be the vertical planes of the unfinished interior surfaces of the drywall walls bounding the Unit as depicted on the Condominium Plat extended to their intersections with each other and with the upper and lower boundaries.
- (C) Interior Walls: No portion of the non-structural interior partition walls within a Unit shall be considered part of the boundary of a Unit.
- (D) Additional Items Included within the Units. To the extent the following items exist for the use of a Unit, such items shall be considered part of the Unit, regardless of whether or not such item in whole or in part exists within the physical boundaries described above:
  - (i) all kitchen items and fixtures, including, but not limited to, ovens, refrigerators, freezers, trash compactors, sinks, ranges, cabinets, dishwashers and exhaust fans;
  - (ii) all bathroom and plumbing fixtures, including, but not necessarily limited to, sinks, tubs, showers, toilets, vanities, bidets, exhaust fans and medicine cabinets or other related storage;
  - (iii) all electrical and lighting fixtures, including but not limited to, outlets, switches, lamps, bulbs, outlet, switch, and control boxes, telephone outlets, circuit breakers, cable television or other communication jacks or outlets or circuit breaker panels;
  - (iv) all clothes washers and dryers, water heaters, heating equipment and air conditioning equipment which serve a Unit; and
  - (v) all pipes, ducts, wiring, facilities, cables and conduits of any kind, nature or type which service a particular Unit.

- (E) Any utility lines which are located within a Unit and which provide service to more than one Unit shall be considered to be Common Elements, notwithstanding their physical location being within the Unit's boundaries. If a wall or roof surface overhangs or part of a Unit encroaches unto the Common Elements, the overhanging or encroaching specific portion of such Unit shall be a part of the Unit.

6. CONDOMINIUM PARCELS: APPURTENANCES AND USE.

6.1. Ownership Shares. The Condominium contains one hundred sixty-two (162) Units. Their use is restricted as provided in Section 12 hereof. The Owner of each Unit shall also own an undivided share in the Common Elements of the Condominium and the common surplus of the Association as set forth in Exhibit "E" attached hereto

6.2. 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) An ownership share in the Common Elements of the Condominium and the Common Surplus of the Association, as specifically set forth in Section 6.1 above.
- (B) Membership and voting rights in the Association, which shall be acquired and exercised as provided in the Articles and Bylaws of the Association, attached hereto as Exhibits "C" and "D", respectively.
- (C) The exclusive right to use the Limited Common Elements reserved for the Unit, and the non-exclusive right to use the Common Elements.
- (D) 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 as may be provided in this Declaration and its exhibits.

The undivided share in the Common Elements and the Common Surplus which is appurtenant to a Unit, and the exclusive right to use all appropriate appurtenant Limited Common Elements, shall not be separated from such Unit and shall pass with the title to the Unit, whether or not separately described. The appurtenant share in the Common Elements and Common Surplus, and the exclusive right to use all Limited Common Elements appurtenant to a Unit, cannot be conveyed or encumbered, except together with such Unit. The respective shares in the Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common Elements, the Condominium Property, or any part thereof, shall lie, except as provided herein with respect to termination of the Condominium.

- 6.3. Use and Possession. A Unit Owner is entitled to exclusive use and possession of his Unit. A Unit Owner 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.
- 6.4. Voting. Each Unit Owner shall be a member of the Association and each Unit shall be entitled to one (1) vote to be cast by its Owner in accordance with the provisions of the Bylaws and the Articles of Incorporation. The total number of votes shall always be equal to the number of Units in the Condominium. Membership in the Association shall automatically terminate upon the termination of ownership of a Unit, and the subsequent Owner(s) taking title shall automatically become entitled to membership and more particularly set forth in the Bylaws.

7. COMMON ELEMENTS: EASEMENTS.

- 7.1. Definition. The term "Common Elements" means all of the Land submitted to condominium ownership that is not within the Unit boundaries set forth in Section 5.2 above. The Common Elements include without limitation the following:
- (A) All portions of the buildings and other improvements on the Land outside the Units, including all Limited Common Elements.
  - (B) Easements through each Unit for conduits, ducts, plumbing, wiring and other facilities for furnishing utility services to other Units or the Common Elements.
  - (C) An easement of support in every portion of the Condominium which contributes to the support of a building.
  - (D) The fixtures and installations required for access and utility services to more than one Unit or to the Common Elements.
  - (E) Common driveways, common parking areas, common walkways, landscaped areas, pool, amenities center and other accessory or recreation areas.
- 7.2. Parking Spaces. Portions of the Condominium Property contain various vehicular parking spaces. All common parking spaces shall be Common Elements and the cost of maintenance and repairs of all common parking spaces is a Common Expense. The assigned parking space that is assigned to each Unit shall be considered Limited Common Elements that are an appurtenance to and run with the title to the Unit. The Association shall have the right to contract for towing services if needed to enforce its rules and restrictions pertaining to parking or storage of vehicles, the cost of which shall be a Specific Assessment against the responsible Owner.

7.3. Easements. Each of the following easements and easement rights is reserved through the Condominium Property and is a covenant 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 Units. Any lien encumbering these easements shall automatically be subordinate to the rights of Unit Owner's with respect to such easements.

- (A) Easement of Support. There shall be an easement of support in every portion of a Unit which contributes to the support of any other Unit or Common Element or Limited Common Element.
- (B) Utility and other Easements. Easements were created in the original declaration, and are hereby re-affirmed, over, under, across and through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to the Units and the Common Elements, provided that such easements do not interfere with the residential use of the Units. The Association further has the power, without the joinder of any Unit Owner, to grant, modify or move easements such as electric, gas, cable television, 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. 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.
- (C) Utility Providers. Easements were reserved in the original declaration, and are hereby re-affirmed, for the respective utility providers under, through, across and over the Condominium Property as may be required from time to time for the construction, use, maintenance and operation of all utilities (whether public or private), cable television, communications and security systems, and other services which may serve the Condominium. Such easements were granted to the Association with the power of assignment.
- (D) 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.
- (E) Ingress and Egress. A non-exclusive easement shall exist in favor of each Unit Owner and occupant, their respective guests, lessees, visitors and family for



pedestrian traffic over, through, and across sidewalks, walkways, paths, sidewalks, 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.

- (F) Natural Growth and Overhanging Troughs and Gutters. There shall be easements for overhanging natural growth of trees and shrubbery over the Units, Common Elements and Limited Common Elements. There shall be easements for overhanging troughs and gutters, downspouts and the discharge therefrom of rainwater and the subsequent flow thereof over the Units, Common Elements and Limited Common Elements.

- 7.4. 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 Unit.

## 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/or shown on the Condominium Plat, including but not limited to. The following Common Elements are hereby designated as Limited Common Elements:

- (A) Miscellaneous. Any area(s) labeled as a Limited Common Element on the Condominium Plat and contiguous to a Unit or identified as being appurtenant to a Unit.
- (B) Air Conditioning Equipment. The air conditioning equipment and fixtures located outside a Unit, including the compressors and the coolant lines between such compressors and the Unit, shall be a Limited Common Element for the exclusive use of the Unit served thereby.
- (C) Parking Spaces. There have been designated, certain parking spaces as limited common elements. These parking spaces have been assigned and intended for the exclusive use for the Unit to which it is appurtenant.
- (D) Lanais. The lanai area attached to each Unit shall be a Limited Common Element for the exclusive use for the Unit it is appurtenant.

- 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 the exclusive use of any assignable Limited Common Element was not, for any reasons, assigned to the use of a specific Unit or Units by the developer of the Condominium, the Association may do so, or may designate another use. 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 with the prior written approval of the Association.

9. ASSOCIATION: The operation of the Condominium is by Gulf Winds East Condominium Association, Inc., a Florida corporation not for profit, which shall perform its function pursuant to the following:
  - 9.1. Articles of Incorporation. A copy of the Second Amended and Restated Articles of Incorporation of the Association is attached as Exhibit "C".
  - 9.2. Bylaws. A copy of the Second Amended and Restated Bylaws is attached as Exhibit "D".
  - 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 rules, 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 and Voting. The members of the Association shall be the record Owners of legal title to the Units, and the rights appurtenant to membership, including voting, are governed by 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 these 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 of Directors, 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 owning a Unit.
  - 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 reasonable fees for the use of Common Elements or Association Property. Provided the provisions of the Condominium Act are followed, 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.

- 9.7. Official Records. The Association shall maintain its Official Records as required by law, and the records shall be open for inspection and copying by members or their authorized representative(s) at all reasonable times, all as further provided in the Condominium Act. The right to inspect records includes a right to make or obtain photocopies at a reasonable expense of the member seeking copies. The Association shall make every attempt, to provide Owners with digital copies of Official Records, at a reasonable expense. All such Official Records shall also be made reasonably available to absentee Owners, including making the Official Records available electronically if so desired by the absentee Owner.
  - 9.8. 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 of Directors without the need for authorization by the Unit Owners and as provided by the Condominium Documents and/or the Condominium Act, as may be amended from time to time.
  - 9.9. 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 of Directors. Except as otherwise provided in Section 9.8 above, the power to acquire ownership interest in real property shall be exercised by the Board of Directors, but only after approval by at least a majority of the voting interests.
  - 9.10. Disposition of Property. Any property owned by the Association, whether real, personal or mixed, may be mortgaged, leased or otherwise encumbered or disposal of by the same authority as would be required to acquire it under Sections 9.8 and 9.9 above.
  - 9.11. Roster. The Association shall maintain a current roster of Unit Owners, subject to any limitations in the Condominium Act. The Owner shall be responsible for notifying the Association and/or management company of any mailing address changes if they will not be present to receive notices at their Unit. A copy of the roster shall be made available to any member upon request provided the content released is in compliance with the Condominium Act.
  - 9.12. Limitation on Liability. Notwithstanding its duty to maintain and repair Condominium or Association property, the Association shall not be liable to individual Unit Owners for personal injury or property damage, other than the cost of maintenance and repair of the Condominium or Association Property, 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, CONTRIBUTIONS AND LIENS: The Association has the power to levy and collect charges and 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 General Assessments for each Unit's share of the Common Expenses as set forth in the Association's annual budget, and Special Assessments for unusual, nonrecurring or unbudgeted expenses as further provided in Section 10.1 below. The Association may also levy Specific Assessments against any individual Unit for any amounts, other than for Common Expenses, which are properly chargeable against such Unit under these Condominium Documents. General Assessments, Special Assessments, Specific Assessments and any other charge properly levied by the Association shall collectively be referred to as "Assessments". The above-referenced Assessments and charges shall be levied and payment enforced as provided in the Bylaws, and as follows:

- 10.1. Special Assessments. In addition to other Assessments, the Association by vote of the Board of Directors may levy Special Assessments, for unbudgeted operating expenses, emergency operating needs, reconstruction, unexpected repair or replacement of a capital improvement, or for any other expenditure approved by the Board of Directors that is unbudgeted and related to the necessary maintenance, repair or replacement of existing Common Elements or other capital improvements maintained by the Association. A Special Assessment shall become due and payable according to reasonable terms and conditions as set forth at the discretion of the Board of Directors. Special Assessments need not be levied at a uniform rate, but may be allocated to specific Units which are specially benefited by the Special Assessment.
- 10.2. 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 other expenses properly incurred by the Association for the Condominium, including amounts budgeted for the purpose of funding reserve accounts. If the Association contracts for pest control within Units or cable television programming services in bulk for the entire Condominium, the cost of such services shall be a Common Expense, unless otherwise provided by the Florida Condominium Act. The cost of water and sewer service shall also be a Common Expense and shall be metered and paid for through the Association.
- 10.3. Share of Common Expenses. The 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.
- 10.4. 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 Owner can withdraw or receive distribution of his share of the common surplus, except as otherwise provided herein or by law.
- 10.5. Who is Liable for Assessments. The Owner of each Unit, regardless of how title was acquired, is liable for all Assessments or installments thereon coming due while he is the Owner. Multiple Owners are jointly and severally liable. Except as provided in Section 19.3 below as to certain first mortgagees, whenever title to a Unit is transferred for any reason, the new Owner is jointly and severally liable with the previous Owner for all

Assessments, interest, late fees, attorneys' fees and costs which came due prior to the transfer and remain unpaid, without prejudice to any right the new Owner may have to recover from the previous Owner any amounts paid by the new Owner. For the purposes of this paragraph, the term "previous Owner" does not include the Association if it acquires title to a delinquent Unit through foreclosure of its lien or by deed in lieu of foreclosure.

- 10.6. 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. Assessment invoices may be provided as a courtesy only and non-receipt is not a defense against timely payment. 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 19.3 below as to certain mortgagees. Nothing herein shall be construed to prevent the Association from compromising or settling a claim for past due assessments for less than full payment, if the Board of Directors determines that such compromise or settlement is in the best interest of the Association. For the purposes of this paragraph, the term "Unit Owner" does not include the Association if it acquires title to a delinquent Unit through foreclosure of its lien or by deed in lieu of foreclosure.
- 10.7. Application of Payments; Failure to Pay; Interest. Assessments and installments thereon not paid on or before ten (10) days after the date due shall bear Interest at the highest rate allowed by law, calculated from the date due until paid. In addition, the Association may charge an administrative late fee, not to exceed the greater of twenty-five (25) dollars or 5% of each delinquent assessment. Assessments shall be deemed paid when received by the Association. 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 of Directors for payment. Regardless of any restrictive endorsement on or accompanying a payment, all payments made by or on behalf of a Unit Owner shall be applied first to Interest, then to late payment fees, then to costs (including but not limited to collection charges imposed by the management company, attorneys and court) and attorney's fees, and finally to delinquent Assessments. No partial or disputed payments accepted by the Association shall be considered an "accord and satisfaction". No payment by check is deemed received until the check has cleared. The Association shall also have the right to require any lessee occupying the Unit during any period in which Assessments for the Unit are delinquent to pay all rents to the Association until the Owner of the Unit is no longer delinquent, and the Association and lessee shall have the other rights and protections as further provided in Section 718.116 of the Condominium Act.
- 10.8. Acceleration. If any Assessment as to a Unit becomes 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 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 Owner a notice of the exercise, which notice shall be sent by certified or registered mail to the 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.

- 10.9. Liens. The Association has a lien on each Unit securing payment of past due Assessments, including without limitation 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. The lien is in effect until barred by law. The claim of lien secures all unpaid Assessments, interest, late fees, attorneys' fees and costs which may accrue subsequent to the recording of the claim of lien and prior to the entry of a Certificate of Title, as well as interest 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.
- 10.10. Priority of Lien. 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 the Condominium Act. Any lease of a Unit shall be subordinate and inferior to the Association's lien, regardless of when the lease was executed.
- 10.11. 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.
- 10.12. Lien for Specific Owner Charges. There is hereby created a common law and contractual lien to secure payment of any charge for any service which the Association provides for an individual Owner and which is not otherwise secured by the statutory lien for Common Expenses. Such charges are known as Specific Assessments. By way of example, but not limitation, a lien for charges exists to secure repayment to the Association when it must remove or reinstall Owner installed alterations or perform Owner maintenance responsibilities, or address emergency situations on behalf of a Unit Owner, such as water extraction from a Unit, or when the Association otherwise incurs an expense to cause compliance with Condominium Documents or to correct the improper conduct of a Unit Owner or his lessees, family, invitees or agents, including without limitation reasonable legal fees and costs incurred in preparation for litigation. The lien for charges shall be of equal priority to a Common Expense lien and shall be foreclosed in the same manner. The lien shall also secure interest, late charges, attorney's fees and costs incurred by the Association.

10.13. Certificate as to Assessments. Within 15 days after request by a Unit Owner or mortgagee, the Association shall provide a certificate (sometimes referred to as an "estoppel letter") stating whether all Assessments and other monies owed to the Association by the Unit Owner with respect to the Unit have been paid. A fee of up to the maximum amount permitted by law may be charged for issuance of an estoppel letter.

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:

11.1. Association Maintenance. The Association is responsible for the protection, maintenance, repair and replacement of all Common Elements, certain portions of Limited Common Elements as listed below and Association Property. The cost is a Common Expense. The Association's responsibilities include without limitation maintenance, repair and replacement of the following:

- (A) All conduits, ducts, plumbing, wiring, and other facilities for the furnishing of any and all utility services including the operation of the drainage and storm water management system and the maintenance of sanitary water and sewer service laterals leading to the Units if the same are not maintained by the appropriate utility company, excluding however appliances, wiring, plumbing fixtures and other facilities within a Unit.
- (B) All facilities and improvements on the Common Elements and the Association Property, including without limitation courts, driveways, and common landscaping.
- (C) Central fire detection systems (including testing) and fire extinguishers.
- (D) All parking spaces and curbs/stops.
- (E) The main entry door to the Unit except for the interior painted surface.
- (F) All exterior walls of the Buildings containing the Units, including the exterior walls and concrete slabs contained within screened lanais, including painting.
- (G) The screened enclosure and railings within the lanais.
- (H) This also includes the screened enclosure, screen doors, screens and railings not included in Section 11.2.
- (I) All roofs covering the Units.
- (J) Main water supply valves for each building.
- (K) Any other improvements on the Condominium Property not specifically

designated hereunder or in the Condominium Act to be the responsibility of the Unit Owners.

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 servicing only that Unit unless such work can only be reasonably accomplished by gaining access to an adjacent 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 and practical to its condition before the damage, and the cost shall be a common expense, except that the Association shall not be responsible for the damage to any alteration or addition made by a Unit Owner or predecessor in title, nor shall the Association be responsible for repair or restoration costs if the need for the work was caused by the negligence of the Owner, nor shall the Association be responsible for unavoidable damage to surface treatments or decorations.

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 Owner's responsibilities include, without limitation, maintenance, repair and replacement of the following:

- (A) All window assemblies, screens and hardware.
- (B) The screen entry doors, casings and hardware thereof.
- (C) The interior surface of the main entry door to the Unit.
- (D) All assemblies, screens, and hardware associated with any weatherproof enclosures installed in any Unit that was the result of an alteration by a previous or current Unit owner.
- (E) All patios outside a Unit that were installed by a previous or current owner.
- (F) The electrical, mechanical and plumbing fixtures, switches, valves, drains and outlets (including connections) located partially or entirely within the Unit or serving only the Unit, including light bulbs.
- (G) The circuit breaker panel and all electrical wiring going into the Unit from the panel.
- (H) Appliances, water heaters, vent fans and owner installed smoke/fire/CO2 detectors/alarms.
- (I) All air conditioning, and heating equipment, thermostats, ducts and installations serving the Unit exclusively, including any portions thereof which may be located outside of the boundaries of the Unit.



- (J) Carpeting and other floor coverings.
- (K) Shower pans.
- (L) The main water supply shut-off valve for the Unit.
- (M) Other facilities or fixtures which are located or contained entirely within the Unit and serve only the Unit.
- (N) All interior, partition walls (including all drywall) which do not form part of the boundary of the Unit, and all drywall, plasterboard and similar materials in the perimeter walls and ceilings of the Unit.
- (O) Portion (s) of the Limited Common Elements, which is the responsibility of the Association, to correct conditions caused by the Owner or lessees, guests, visitors or family of the Owner. The Association shall have the right to seek payment from the Owner of such Unit to correct the condition.
- (P) In the event that any Owner, their Lessee(s), Guests, invitees, visitors and/or family causes a condition to occur or exist in the Condominium and/or to any Common Element or Limited Common Element that the Association then causes to be cured, fixed and/or remedied, the Owner shall be liable and responsible for the costs (including but not limited to any attorneys' fees or professional fees and costs), incurred by the Association in so curing, fixing or remedying the condition.

11.3. Other Unit Owner's Responsibilities. The Association in the exercise of its discretion may require established levels of maintenance and repair with respect to the Limited Common Elements, and may reasonably regulate and control and make rules relating to the appearance, upkeep, painting and decorating and utilization of the Limited Common Elements. The Unit Owner shall have the following responsibilities:

- (A) Building Exterior. The Association is responsible for the maintenance, repair and replacement of all exterior walls of the Building and the concrete slabs. The Association may likewise undertake the painting, maintenance and/or repair of all exterior walls of the Condominium, whether or not falling within a balustrade or railing, as part of an overall program of maintenance and repair. Unit Owners shall not paint or otherwise decorate, alter or change the appearance of any portion of the exterior of the Building, including the Common Elements, Limited Common Elements and the door or doors to the Unit unless approved as provided in this Declaration by the Association or an Architectural Review Committee.
- (B) Interior Decorating. Each Unit Owner is responsible for all decorating within 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 floors covered with wall-to-wall carpeting installed over high quality padding, except that carpeting is not required in kitchens, bathrooms, hallways and laundry areas. Hard surface floor materials, other than those originally installed by the developer of the Condominium, such as hardwood, vinyl or ceramic tiles, may not be applied to the floor surfaces of any portion of the Unit unless there is an approved form of some sound deadening or sound insulation material meeting a minimum IIC rating of 50 according to the ASTM standards E989-89 and E492-90, or the current versions of these standards, placed between such flooring and the unfinished floor surface of the Unit. Said hard surface floor materials must be approved in writing by the Association or an Architectural Review Committee prior to their installation. The Association may require, at Unit Owner's expense, that the Unit Owner remove any unapproved flooring materials that in the Board of Directors' opinion do not meet the above standards.
- (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 the Rules and Regulations of the Association, as may be adopted from time to time
- (E) Modifications and Alterations. If a Unit Owner makes any modifications, alterations, installations or additions to his Unit, Limited Common Elements or the Common Elements, the Unit Owner and his successors in title shall be financially responsible for the maintenance, repair and replacement of the modifications, installations, alterations or additions, as well as the cost of repairing any damage to the Common Elements or other Units resulting from same, and any insurance that the Owner obtains, in his discretion. Alterations, modifications, installations and additions to the Unit and Common Elements (including any Limited Common Elements) must be approved by the Board of Directors. The Board of Directors may establish an Architectural Review Committee, its members to be made up of Directors and non-Directors, to review proposed changes, alterations to Units, including but not limited to, lanais and patios. Proposed changes, alteration, repairs and modifications shall be submitted to the Architectural Review committee in writing for approval along with specific plans and the Architectural Review Committee shall have thirty (30) days in which to approve or disapprove the requested alteration, change, repair or modification. If the Architectural Review Committee denies an application, it shall be specific to the reasoning in its notice of denial. The Unit Owner and his or her successor in title shall be responsible for the costs of removing and replacing or reinstalling such modifications, installations, alterations or additions if their removal by the Association becomes necessary in order to maintain, repair, replace or protect other parts of the Condominium Property. In the event of conflict, the provisions of this paragraph shall control over other more general provisions herein.
- (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 or Common Elements, whether with or without Association approval, such 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 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 Common Elements and which are attributable to work performed by or for the benefit of the Unit Owner. The Board of Directors may establish rules regarding contractor access to the Condominium Property including rules regarding work hours and may require a Unit Owner to post a damage/cleaning deposit in advance of commencing any work.

- 11.4. Appliance Maintenance Contracts. If there shall become available to the Association a program of contract maintenance for water heaters within Units and/or air-conditioning compressors and/or air handlers serving individual Units, then the Association may enter into such contractual undertakings upon approval of the Board of Directors. The expenses of such contractual undertakings to the Association shall be a Common Expense. 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 Owner shall make or permit the making of any material alterations or substantial additions to his Unit or the 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 of Directors, which approval may be denied if the Board of Directors 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 regulation by the Board of Directors. No Owner may alter the landscaping, including landscaping installed by a previous or current Owner adjacent to their patio or the Common Elements in any way.
- 11.6. Alterations of Common Elements and Association Property by the Association. 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. If the Board of Directors determines that work is reasonably necessary to protect, maintain, repair, replace or ensure the Common Elements or Association Property or to comply with any local, state or federal law or regulation, no prior Unit Owner approval is required even if the work constitutes a material alteration or substantial addition to the Common Elements. The Board of Directors shall also have the authority to levy Special Assessment or otherwise approve funding for a material alteration or substantial addition to the Common Elements, without approval from the Members, provided such alteration or addition does not involve a total expenditure of more than \$25,000.00 or result in more than \$50,000.00 in Board of Director's authorized material

alterations or substantial additions in any calendar year. Any material alterations or substantial additions to the Common Elements that that will exceed these limits, whether funded by Special Assessment or other sources of funding, shall first be approved by at least two-thirds (2/3) of the members present and voting in person or by proxy at a Members meeting.

- 11.7. Enforcement of Maintenance. If after reasonable notice, the Owner of a Unit fails to maintain, repair or replace the Unit (or portions thereof), its appurtenant Limited Common Elements or Common Elements for which the Unit Owner 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 without further notice to or consent of the tenant or Unit Owner, to repair, replace, or maintain any item which in the reasonable judgment of the Board of Directors may constitute a health or safety hazard to other property or residents or which has a material adverse effect on the appearance or condition of the Condominium. Any expenses incurred by the Association in performing work within the Unit as authorized by this Declaration shall be charged to the Unit Owner as a Specific Assessment, together with reasonable attorney's fees and other expenses or collection, if any, which expense shall be secured by a lien against the Unit and may be foreclosed in the same manner as Common Expenses. The Board of Directors is authorized to adopt and enforce a schedule of maintenance, repair and replacement for items and components for which the Unit Owners are responsible, such as but not limited to windows and doors and preparations for hurricane season. Unit Owners shall maintain, repair and replace such items and components as scheduled and directed by the Board of Directors. The Board of Directors is also authorized to adopt and enforce specifications for such items including but not limited to type, style, color, and manner of installation. If deemed necessary for the protection of the Common Elements or surrounding Units, the Board of Directors is also authorized to require reasonable upgrades, replacements and improvements to systems and equipment that exclusively serve individual Units and which are the responsibility of the Unit Owner. This may include, but is not limited to, water supply lines and smoke detectors. The Board of Directors shall have the right to require such upgrades, replacements and improvements as a condition of approving any transfer contemplated by Section 13 hereof.
- 11.8. Negligence: Damage Caused by Condition in Unit or Common Elements. The 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 act or negligence, or by that of any member of his family lessees, guests, visitors, employees, or agents. Each Unit Owner has a duty to maintain his Unit, any Limited Common Element appurtenant to the Unit, 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 Owners and residents. If any condition, defect or malfunction, resulting from the Owner's failure to perform this duty causes damage to other Units, the Common Elements, Association Property or property within other Units, the Owner of the offending Unit shall be liable for the damage. Neither Association nor any Unit Owner shall be liable for any damage to the real or personal property and 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 Unit Owner is guilty of negligence or willful or wanton misconduct.

Owners failing to upgrade their windows as required by the Board, resulting in damage to Association Property, the Common Elements, Limited Common Elements and/or other Units and/or property within other Units, shall be liable for the damage in accordance with the provisions of this Section 11.8, the Condominium Documents and Florida law.

- 11.9. Association's Access to Units. The Association has an irrevocable right of access to the Units for the purposes of protecting, maintaining, repairing, and replacing the Common Elements or portions of a Unit to be maintained by the Association under this Declaration, and as necessary to prevent damage to one or more Units. The Association's right of access includes, without limitation, entry for purposes of pest control, water heater repairs, air conditioning equipment repairs, 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 or 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. If, after giving proper notice (i.e. phone call, text message, e-mail, knock on door), to ascertain if the unit(s) is unoccupied, the Association shall have the right to enter the Unit without any additional notice or consent of the tenant or Unit Owner. The Association will retain a pass-key to all Units. A Unit Owner shall not 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 after the change is made. If the Association is not provided with a key to the Unit, the 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.
- 11.10. Pest Control. The Association may supply pest control within or around the Units with the cost thereof being part of the Common Expenses. Should it be necessary to treat the Unit(s) for termites, each Unit Owner agrees to cooperate the Associate and vacate the Unit as is reasonably necessary to properly and safely complete the treatment.
- 11.11. Hurricane Shutters. The Board of Directors shall adopt hurricane shutter specifications for use at the Condominium. The specifications shall include the style, color and other factors deemed relevant by the Board of Directors. No hurricane shutter except those meeting the specifications adopted by the Board of Directors shall be used in or upon the Condominium and/or any Units. All specifications adopted by the Board of Directors shall comply with the applicable building code. The Board of Directors shall not refuse to approve the installation or replacement of hurricane shutters conforming to the specification adopted by the Board of Directors. The installation of such hurricane shutters in accordance with these provisions shall not be deemed a material alteration to the Common Elements or Association Property. Property.

11.12. Preparing Unit for Vacancy. In order to better protect the common elements, the Association shall have the right (but not the obligation) to require Unit Owners to take certain steps to prepare their Unit for any period of vacancy that exceeds thirty (30) days. At a minimum, the Board of Directors shall have the authority to require Unit Owners to do the following:

- (A) Provide the name(s) and contact information for trusted person(s) who is local and can act on Owner's behalf in the event of an emergency;
- (B) Provide Association Management with a Key to the Unit;
- (C) Remove potted plants from the lanai (if not protected from exterior weather sources such as hurricane shutters or other permanent protective devices);
- (D) Remove furniture from the lanai (if not protected from exterior weather sources such as hurricane shutters or other permanent protective devices);
- (E) Have mail forwarded and newspaper service temporarily stopped;
- (F) Shut off main water valve;
- (G) Lock and secure Unit.

12. OCCUPANCY AND USE RESTRICTIONS. In order to foster a stable residential community and prevent a motel-like atmosphere, and to provide for congenial occupancy of the Condominium Property and for the protection of the values of the Units, the use of the Condominium Property shall be restricted to and shall be in accordance with the following provisions, in addition to the Rules and Regulations.

12.1. Occupancy and Use of Units. Each Unit shall be occupied by only one Family, lessees, family, guests and visitors, as a residence and for no other purpose. No business or commercial activity shall be conducted in or from any Unit. The use of a Unit as a public lodging establishment or as part of a fractional ownership or vacation club program shall be deemed a business or commercial use and is prohibited. This restriction shall not be construed to prohibit any 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, email or written correspondence in and from his Unit.

12.2. Regulation by Association. All of the provisions of the Condominium Documents, and the Rules and Regulations of the Association, shall be applicable and enforceable against any person occupying a Unit as a lessee, family, guest or visitor to the same extent as against the Owner. A covenant on the part of each occupant to abide by the Rules and Regulations of the Association and the provisions of the Governing Documents, designating the Association as the Owner's agent with the authority under Chapter 83, Florida Statutes, to terminate any lease agreement or other document and evict the tenants

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. Further, Owners and their tenants are jointly and severally liable for fines levied by the Association and for reasonable attorney's fees and costs incurred by the Association to enforce these provisions.

- 12.3. Lawful Use. - No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or any part thereof; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement, modification or repair of the Condominium Property shall be that of those responsible for the maintenance and repair of the property concerned.
- 12.4. Occupancy in Absence of Owner - Immediate Family, Guests and Visitors. If the Owner and his family who permanently reside with him are absent, and are not occupying the Unit, and the Unit has not been leased, the Owner may permit his Unit to be occupied by his invitees only in accordance with the following:
- (A) Immediate Family - Immediate Family members may occupy the Unit in the absence of the Owner without limitation as to the number of occasions or length of stay. As a courtesy, it is recommended but not required, that the Owner notify Association Management of the relationships of the family members and any other relevant information such as the length of their stay and vehicle information. No application and no Board of Director approval is required. In the event a Unit is owned by a corporation, partnership, trust or some other entity or two or more natural persons (other than husband and wife or domestic partners), only one (1) Family may occupy the Unit in the absence of the Owner or primary occupant(s).
  - (B) Guests - Persons who are not Immediate Family members of the Owner are considered guests and may occupy the Unit in the absence of the Owner for a period of less than thirty (30) days without the payment for consideration. A guest registration form, providing relevant information, such as names, length of stay and vehicle information, shall be submitted to Association Management prior to the occupancy date. Guest occupancy shall be limited to four (4) times in any calendar year. Any guest who occupies a Unit for more than thirty (30) days shall be deemed to be leasing the Unit and shall be subject to approval and the other leasing restrictions as set forth in Section 12.6. If the number of Guest occupancies exceeds the four (4) times in any calendar year requirement, any additional guest occupancies will be deemed to be leasing the Unit and shall be subject to approval and the other leasing restrictions as set forth in Section 12.6. In the event a Unit is owned by a corporation, partnership, trust or some other entity or two or more natural persons (other than husband and wife or domestic partners), only one (1) Family may occupy the Unit in the absence of the Owner or primary occupant(s). The Board of Directors may delegate its approval powers to an ad hoc committee similar what is specified in Section 13.2 D.

- 12.5. Visitors. - Owners, lessees, family and Guests may have visitors during their period of occupancy so long as occupancy requirements specified in this Declaration are complied with. Visitor's stays may range from a day to a period of less than thirty (30) days. As a courtesy, it is recommended but not required, that the Owner should notify Association Management of visitors, who are expected to be occupants for seven (7) days or more. Other information, such as, the length of their stay, and vehicle information should also be provided. Any visitor who occupies a Unit for more than thirty (30) days shall be deemed to be leasing the Unit and shall be subject to approval and applicable leasing restrictions as set forth in Section 12.6.
- 12.6. Leasing. All leases must be in writing. An Owner may lease only his entire Unit, and then only in accordance with this Section, after receiving the approval of the Board of Directors. Lessees may not sublet their Unit or portion of their Unit. The lessee must be a natural person. The total number of overnight occupants of a leased Unit is limited to two persons per bedroom; therefore, there shall never be more than four (4) people overnight in a leased Unit.
- (A) Leasing. - Only entire Units may be leased provided and no rooms may be rented and no transient tenants may be accommodated. No lease shall be for a period of less than thirty (30) days, or for more than twelve (12) months. Units cannot be leased more than four (4) times in a twelve (12) month period. An application shall be submitted, to the Board of Directors for approval, by the Owner, at least thirty (30) days prior, to the expected occupancy date. The Board of Directors may require a personal interview with any lessee(s) as a pre-condition to approval.
- (B) Board of Directors Action. The Association shall have fifteen (15) days to approve or disapprove the proposed application. If the Board of Directors neither approves or disapproves within that time, its failure shall be deemed the equivalent of approval, and on demand the Association shall issue a written letter of approval. See Sections 13.3.C and 13.3.D for approval and disapproval guidance. Renewals and extensions are considered new leases and require an application and written approval of the Association. Approved lessees may not have guests occupy the leased Unit when the lessee is not in residence.
- (C) Application Review Committee. The Board of Directors may delegate its approval powers to an ad hoc committee similar what is specified in Section 13.2 D. The Board of Directors may supplement these provisions and further adopt rules and regulations and guidelines governing the leasing of Units as it deems necessary from time to time.
- (D) Fees and Deposits for the Lease of Units. The Association may charge the Owner a fee for processing a occupancy application, such fee not to exceed the maximum amount allowed by law (currently \$100 per applicant with husband and wife or parent and child considered one applicant). 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 which shall protect against damage to the Common Elements or Association Property. A separate fee may be charged for each person who is intending to occupy the Unit under the lease except that only a single fee may be charged to a husband and wife and no extra fee may be charged for minor children.

- 12.7. Use of Common Elements and Association Property. To prevent overtaxing the facilities, a Unit Owner whose Unit is leased or being used by guests may not use the recreational or parking facilities during the time period the Unit is being leased or used by guests, except as otherwise may be required by law subject to regulation by the Board of Directors.
- 12.8. Minors. Children shall be closely supervised at all times by an adult to insure that they do not injure themselves or become a source of annoyance to other residents of the Condominium. Unit Owners, lessees, family guests and visitors shall abide by the Rules and Regulations adopted by the Board of Directors with respect to children in the Common Elements.
- 12.9. Drones. Persons are not allowed to fly drones on condominium property. In certain circumstances the Board of Directors may approve the use of drones for survey, maintenance inspection or other Association related purposes and/or as the Board of Directors may deem reasonable from time to time.
- 12.10. Parking. Each Unit is permitted two (2) permanent vehicles on a daily basis subject to the restrictions set forth in this paragraph, one of which must be parked in the assigned carport space to which the Unit is assigned. No motor vehicle shall be parked on the Condominium Property except in such areas intended for that purpose and in accordance with Rules and Regulations established by the Association from time to time. Parking in unpaved areas and in the driveways is prohibited. Trailers, boats, recreational vehicles, motor coaches/homes, campers, vehicles greater than 20 feet in length, disabled vehicles, vehicles with missing vehicle body parts, vehicles with missing or expired tags, and commercial vehicles of whatever type, other than service vehicles temporarily present on business, shall not be parked on the Condominium Property. No truck with a dual axle or extended wheel base or other improvements which modify a truck beyond its originally intended purpose as a family or household vehicle shall be permitted. No truck or other vehicle which has been modified to have a larger footprint or to be taller than as "factory equipped" shall be permitted. No full-size vans shall be permitted. Small mini vans and SUV's that are designed for and equipped solely as private passenger vehicles that otherwise comply with the requirements of this Section shall be permitted. "Commercial vehicle" as used herein means any vehicle that displays any signage, tools, or equipment which is of a commercial nature or any vehicle, with or without signage, tools or equipment that is primarily designed to be used for commercial purposes. Pick-up trucks not exceeding one (1) ton are permitted. ATV's, motor scooter, mopeds, and motorcycles are not allowed. The Association is authorized to tow or place a disabling "boot" on any vehicle violating this Section, the

Rules and Regulations, a law or any other restriction contained in the Condominium Documents and the cost of towing and/or booting shall be the obligation of the Owner of the vehicle. No maintenance or repairs of vehicles shall be performed anywhere on the Condominium Property, with the only exceptions being washing, battery charging or replacing a flat tire

- 12.11. Nuisances. No Owner, lessee, family, guests, visitors shall use their 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. No immoral, improper, offensive or unlawful use shall be made of the Association Property nor of any Unit or any part thereof. 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. Examples of activity that would constitute a "nuisance" include (but is not limited to) the following: a) loud, consistent noises; b) obnoxious odors; c) conditions creating or attracting an infestation of pests or rodents; and d) frequent domestic disturbances causing the arrival of emergency or police vehicles. The Association shall have the right and power to take whatever action(s) it deems reasonably necessary to abate and/or remedy any act or omission that the Association reasonably believes to be a nuisance, including but not limited to, the filing of a legal action. Notice is not required to be given to any Owner, Occupant, Guest, lessee and/or any other person or entity regarding any such nuisance prior to the Association taking any such action(s) to abate or remedy the nuisance.
- 12.12. Smoking. The community is designated as a non smoking community. As such, smoking is not allowed in any of the common element or limited common element areas except for the parking lots and driveways. Residents that smoke shall be conscious of the negative effects of "second hand" smoke on other residents and take action as necessary to prevent the smoke from becoming a nuisance to other residents.
- 12.13. Signs. No person may post or display "For Sale", "For Rent", "Open House", other similar signs or any other signs of whatever type anywhere on the Condominium Property without advance written approval from the Association. "Open House" signs if approved are only allowed during the time of the open house. Posting or placing a sign in a Unit window, in or on a vehicle on Condominium Property or on a lanai is prohibited. This provision shall not prohibit Owners from placing lock boxes at the entry to the Unit for the purposes of allowing entry by realtors and prospective purchasers or lessees.
- 12.14. Use of Common Elements. Common hallways, stairways, walkways and other Common Elements shall not be obstructed, littered, defaced or misused in any manner. These areas shall be used only for the purposes intended and in accordance with Rules and Regulations adopted by the Board of Directors, and they shall not be used for hanging or drying clothing, for cleaning of rugs or other household items, or for storage of bicycles or other personal property, except that bicycles may be stored in areas designated for bicycles in accordance with Rules and Regulations adopted by the Board of Directors

from time to time.

- 12.15. Satellite Dishes/Antennas. Satellite dishes and antennas are prohibited on any portion of the Common Elements. Satellite dishes or antennas may be installed in the Unit or on Limited Common Elements in accordance with the Telecommunications Act of 1996 as amended, and further subject to reasonable architectural criteria adopted by the Association.
- 12.16. Landscaping. The landscape maintenance company contracted by the Association will be responsible for necessary maintenance and replacement of landscaping and existing plantings. Owners, family members, guests, and visitors shall refrain from performing any landscaping or plantings on the Condominium Property and shall refrain from interfering with the Association's contracted landscape company.
- 12.17. Estate sales. An estate sale may only be held by a professional company regularly engaged in the business of conducting estate sales. Owners must receive advance written permission from the Board of Directors before conducting such sales.
- 12.18. Pool Area and Courts. Owners, family, guests, lessees, tenants and visitors shall abide and observe the Rules and Regulations that govern the pool area and courts.
- 12.19. Outdoor Cooking. No hibachi, grill, fire pit or other similar device fueled by charcoal or gas and used for cooking or heating shall be stored or used on walkways or lanais. To the extent permitted by law, electric grills may be used on lanais provided they comply with the Association's Rules and Regulations and fire codes. Charcoal grills are provided in common areas for use by all residents. Gas grills are not permitted to be used on Association property.
- 12.20. Pets and Animals. The keeping of pets and animals within the Units or on Condominium Property is strictly prohibited.
- 12.21. Emergency Powers and Use Restrictions; Board of Directors Authority. In addition to Board of Directors authority granted by law and the Condominium Documents, during and after a time of emergency as defined in the Bylaws, the Board of Directors shall have the following power and authority but not the duty or obligation:
- (A) To declare any portion of the Condominium Property unavailable for occupation by Owners, tenants, or guests after casualty, including during the rebuilding process. Such decision by the Board of Directors shall be made only if necessary to protect the health, safety, or welfare of the Association, Owners, tenants or guests.
  - (B) To mitigate damage and take action to prevent the spread of fungus, mold, mildew, etc. by tearing out wet drywall and carpet (even if the Unit Owner is obligated to insure and/or replace those items). The Association shall secure payment for same as a charge and Specific Assessments against the Unit.

- (C) To remove a Unit Owner's personal property from the Unit and to store same at an off-site facility. The Association shall secure payment for same as an Assessment and Specific Assessment against the Unit.
- (D) To contract on behalf of Unit Owners for items for which the Owner is responsible but which may be necessary to prevent further damage. Without limitation, this includes dry-out of Units and replacement of damaged air conditioners when necessary to provide climate control in the Units. The Association shall secure payment for same as a Specific Assessment against the Unit.
- (E) To, regardless of any other provision of this Declaration or the governing documents, take such action as may reasonably appear to be necessary under emergency conditions. This authority includes the authority to expend any and all available Association funds, including reserves.
- (F) To implement a disaster plan prior to, during or after an impending casualty including, but not limited to, shutting down elevators, electricity, security systems, and air conditioners.

12.22. Rules and Regulations. The Board of Directors shall have the authority to adopt reasonable regulations concerning the use of Units, facilities, the Association Property and the Common Elements and Limited Common Elements and regarding such other matters that the Board of Directors deems reasonable and necessary from time to time. Such Rules and Regulations may include provisions restricting the use to members of the Association, families, guests, lessees and visitors. The foregoing power and authority notwithstanding the Association, and its Directors, Officers, agents and assigns shall not be liable for failing to exercise said power and authority.

13. 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:

13.1. Forms of Ownership.

- (A) Only One Unit May Be Owned. No natural person, corporation, limited liability company, Trust, partnership, and/or any other entity, whatsoever, shall own more than one (1) Unit in the Condominium at any time. The prohibition in this Section 13.1(A), shall only apply to the sale and purchase of any Unit(s) after the date this Second Amended Declaration is recorded. Any persons or entities owning more than one (1) unit at the time this Second Amended Declaration is recorded shall be exempt from this provision as to the Units owned at that time

only. However, any future sales or acquisitions of any Units by said persons or entities shall be subject to this provision.

- (B) One Person. A Unit may be owned by one natural person who has qualified and been approved as elsewhere provided herein.
- (C) Two or More Persons. Co-ownership of Units by two or more natural persons is permitted. However, the intent of this provision is to allow flexibility in estate, tax or financial planning, and not to create circumstances where the Unit may be used as short-term transient accommodations for multiple families. If the co-owners are other than husband and wife, the Board of Directors shall condition its approval upon the designation of one approved natural person as "primary occupant". The use of the Unit by other persons shall be as if the primary occupant were the only actual Owner. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section 13. No more than one such change will be approved in any twelve (12) month period, except in the case of the death or incapacity of the primary occupant.
- (D) 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 elsewhere herein. 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 trustee, or corporation, partnership or other entity as a Unit Owner shall be conditioned upon designation by the Owner of one 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 Owner. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section 13. No more than one such change will be approved in any twelve (12) month period, except in the case of the death or incapacity of the primary occupant.
- (E) Designation of Primary Occupant. Within thirty (30) days after the effective date of the transfer of ownership of the Unit, each Owner of a Unit which is owned in the forms of ownership stated in preceding subsections 13.1 (B) and 13.1 (C) shall designate a primary occupant in writing to the Association. If any Unit Owner fails to do so, the Board of Directors may make the designation for the Owner, and shall notify the Owner in writing of its action.
- (F) Life Estate. A Unit may be subjected to a life estate, either by operation of law or by a voluntary conveyance approved under 13.2 below. In that event, the life tenant shall be the only Association member from such Unit, and occupancy of the Unit shall be as if the life tenant was the only 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 Association 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-owners for purposes of determining voting and occupancy rights under Section 13.1 (B), above.

### 13.2. Transfers.

- (A) Sale or Gift. No Unit Owner may dispose of a Unit or any ownership interest in a Unit by sale or gift (including agreement for deed) without submitting an application and obtaining prior written approval of the Board of Directors.
- (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 of Directors under Section 13.3 below. The approval shall not be denied to any devisee or heir who was the prior Owner's lawful spouse at the time of death, or was related to the Owner by blood or adoption within the first degree.
- (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 13.3 below.
- (D) To facilitate transfers the Board of Directors may by resolution delegate its approval powers to an ad hoc committee, which shall consist of at least three (3) members. The Chairman of the committee shall be deemed a Vice-President, and as such shall be empowered to execute Certificate of Approval on behalf of the Association.

### 13.3. Procedures.

- (A) Notice to the Association.
  - (i) Sale or Gift. An application, shall be submitted to the Board of Directors for approval, by the Owner, at least thirty (30) days prior, to the intended closing date. The application should contain 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. The Board of Directors may require a personal interview with any purchaser or donee and his spouse, if any, as a pre-condition to approval.
  - (ii) 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 sell or lease the Unit following the procedures in this Section or Section 13.

- (iii) Demand. With the application or notice required in Subsections 13.3(A)(i) and (ii) above, the Owner or transferee seeking approval may make a written demand that if the transfer is disapproved without good cause, the Association shall furnish an approved alternate purchaser who shall purchase the Unit at the same price and upon substantially the same terms as in the disapproved sales contract, or if no contract is involved, for the fair market value of the Unit determined as provided below.
  - (iv) Failure to Give Notice. If no application is submitted, the Board of Directors, at its election, may approve or disapprove at the time it learns of the transfer. If any Owner fails to obtain the Board of Directors of Director'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 covenants of this Declaration, and shall constitute good cause for Association disapproval.
- (B) Board of Directors Action. Within fifteen (15) days after receipt of the application and all information or interviews requested; or not later than sixty (60) days after the notice required by paragraph 13.3 (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 or 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 for good cause only if a majority of the whole Board of Directors so votes, after receiving a written opinion of counsel that good cause exists. Only the following may be deemed to constitute good cause for disapproval:
- (i) 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.
  - (ii) the person seeking approval has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures or bad debts;

- (iii) the person seeking approval gives the Board of Directors reasonable cause to believe that person intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the Condominium;
  - (iv) the person seeking approval has a history of disruptive behavior or disregard for the rights or property of others;
  - (v) the person seeking approval has evidenced an attitude of disregard for association rules by his conduct in this Condominium as a tenant, Unit Owner or occupant of a Unit;
  - (vi) the person seeking approval has failed to provide the information, fees or interviews required to process the application in a timely manner, or provided false information during the application process; or
  - (vii) the transaction, if a sale or gift, was concluded by the parties without having sought and obtained the prior approval required herein.
  - (viii) The transaction would result in the person seeking approval 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 whole Board of Directors so votes. If the Board of Directors disapproves without good cause, and if the Owner or transferee has made the demand set forth in Section 13.3 (A)(iii), 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 Owner (hereafter "the seller") the name of an approved purchaser who will purchase the Unit at the same price, and upon substantially the same terms, as in the disapproved sales contract. If no sale contract was involved, or if the Association challenges the contract price as not being a good faith purchase price, then the purchase price shall be paid in cash, and 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 (2) state-certified property appraisers, one selected by the seller 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 buyer and seller, except that the purchaser shall pay for his own title insurance, and all costs of mortgage financing. Real property taxes and condominium assessments shall be prorated to the day of closing and the parties shall bear their own attorneys 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 Director's former disapproval, and upon demand a Certificate of Approval shall be issued.

13.4. Exception. The provisions of Sections 13.2 and 13.3 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.

13.5. 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.

13.6. Fees Related to the Sale of Units. Whenever herein the Board of Director's approval is required to allow the sale or other transfer of an interest in a Unit, the Association may charge the Owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law (currently \$100.00 per applicant with husband and wife or parent and child considered one applicant).

14. COMPLIANCE AND DEFAULT. Each Unit Owner their families, Guests, lessees and visitors shall be governed by and shall comply with the terms of the Condominium Documents, and any and all regulations adopted pursuant thereto, as they may be amended from time to time. Failure of the Unit Owner to comply therewith shall entitle the Association or other Unit Owners to the following relief in addition to the remedies provided by the Condominium Act.

14.1. Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any employees, agents, families, guests, lessees and visitors, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association.

14.2. Costs and Legal Fees. Any Unit Owner who fails or refuses to correct threatening, harassing or nuisance conduct, or such other violation of the Condominium Documents, following written warning and a reasonable opportunity to comply, shall be responsible for Legal Fees and expenses incurred by the Association to compel compliance. Said fees and expenses shall include pre-litigation demands and notices sent by the Association's attorney, and shall be a Specific Assessment and lien against the Unit Owner's Unit if not paid upon demand. Further, in any proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of the Condominium Documents, and any and all regulations adopted pursuant thereto, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney fees as may be awarded by the court.

14.3. Fines and Suspensions. The Association shall have the right to levy fines and

suspensions against Owners and their family, lessees, guests and visitors invitees, as permitted by Section 718.303 of the Condominium Act, as may be amended from time to time.

14.4. Injunctive Relief and Other Remedies. The Association shall be entitled to pursue injunctive relief and any other remedy available at law or in equity, including without limitation eviction under Chapter 83, Florida Statutes, if the Board of Directors determines that such legal action is necessary to ensure compliance with the Condominium Documents, and any and all regulations adopted pursuant thereto, as they may be amended from time to time.

14.5. No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provisions of the Condominium Act, the Condominium Documents, or the regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

15. INSURANCE. Insurance shall be carried and kept in force at all times in accordance with the following provisions:

15.1. Duty and Authority to Obtain. The Association shall obtain and keep in force at all times the insurance coverage which it is required hereby to carry and may obtain and keep in force any or all of such other or additional insurance coverage as it is authorized hereby to carry. All insurance obtained by the Association shall be purchased for the benefit of the Association and the Unit Owners and their mortgagees. A certificate evidencing a mortgagee endorsement shall be issued to the mortgagee of each Unit upon request. The Owner(s) of each Unit, at his own expense, may obtain insurance coverage as stated in section 15.9 below. Any such policies of insurance purchased by a Unit Owner shall, where such provision is available, contain a clause providing that the insurer waives its right to subrogation as to any claim or claims against other Unit Owners, the Association, and their respective employees, agents, guests and invitees.

15.2. Required Coverage. The Board of Directors shall use its best efforts to obtain and maintain adequate insurance to protect the Association, the Association Property, the Common Elements, and the Condominium Property required to be insured by the Association pursuant to Section 718.111(11) of the Condominium Act, and obtain and keep in force any or all additional insurance coverage as it deems necessary. The Association shall use its best efforts to purchase and carry insurance coverage as follows (however, such coverage shall only insure the Condominium in the manner permitted by law and according to the original plans and specifications. Coverage for any alterations, improvements or modifications to Units made by Unit Owner(s) shall be the responsibility of Unit Owner(s)):

(A) Public Liability. Public liability insurance, in such amounts, with such coverage and in such forms as shall be required by the Board of Directors of the Association, to protect the Association and the Owners of all Units, including non-owned automobiles, off-premises employee coverage, water damage and

legal liability, with cross-liability endorsements to cover liability of all Unit Owners as a group to each Unit Owner; and

- (E) Workmen's Compensation. Workmen's compensation insurance to meet the requirements of law; and
- (F) Flood Insurance. Flood insurance, in an amount equal to the maximum insurance replacement value (inclusive of excavation and foundation costs, but exclusive of the cost to replace equipment and fixtures within a Unit, which shall be the responsibility of the Unit Owner), if the same shall be necessary under the laws of the United States for federally related mortgage lenders to make mortgage loans on Units; and
- (G) Fidelity Insurance. Fidelity insurance, as required by law, covering all officers and employees of the Association and any managing agent who handles Association funds.
- (H) Directors, Officers and Committee Members' Liability (Errors and Omissions).
- (I) Property/Hazard. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by what is commonly known as an "All Risk" property contract, which shall provide primary coverage for:
  - (i) All portions of the Condominium Property located outside the Unit;
  - (ii) The Condominium Property located inside the Unit as such property was initially installed, or replacements thereof like kind and quality and in accordance with the original plans and specifications, or if the original plans and specifications are not available, as they existed at the time the Unit was initially conveyed; and
  - (iii) All portions of the Condominium Property for which this Declaration requires coverage by the Association.
  - (iv) Anything to the contrary notwithstanding, the terms "Condominium Property", "building", "improvements", "insurable improvements", "Common Elements", "Association Property", or any other term found in this Declaration which defines the scope of property or casualty insurance that the Association must obtain shall exclude all 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 a Unit and serve only one (1) Unit. The foregoing is intended to establish the property or casualty insuring responsibilities of the Association and those of the individual Unit Owner in compliance with Section 718.111(11) of the Condominium Act, and

is not intended to broaden or extend the coverage required to be afforded by law.

- 15.3 Optional Coverage. The Association may purchase and carry such other insurance coverage, other than title insurance, as the Board of Directors of the Association, in its sole discretion, may determine from time to time to be in the best interests of the Association and Unit Owners, or as an institutional lender may reasonably require while it holds a mortgage encumbering any Unit.
- 15.4 Premiums. Premiums for all insurance obtained and purchased by the Association shall be paid by the Association. The cost of insurance premiums, and other incidental expenses incurred by the Association in administering and carrying out the provisions of this Article, shall be assessed against and collected from Unit Owners as General Common Expenses.
- 15.5 Insured. All policies of insurance obtained and purchased by the Association shall be for the benefit of the Association, the Owners of Units and their mortgagees, as their interests may appear, and shall provide that all proceeds covering casualty losses shall be paid to the Association as Trustee for the benefit of whoever is entitled to the proceeds. The proceeds from insurance against any casualty loss shall be held for the use of the Association, Unit Owners and their respective mortgagees, as their interests may appear, to be applied or distributed in the manner herein provided. The Association is hereby constituted and appointed agent for all Unit Owners, with authority to negotiate and settle the value and extent of any and all losses covered under any policy of casualty insurance, and the Association is granted full right and authority to execute, in favor of any insurer, a release of liability arising out of any occurrence covered by any policy or policies of casualty insurance and resulting in loss of or damage to insured property.
- 15.6 Insurer. All persons beneficially interested in the insurance coverage obtained, purchased and maintained by the Association shall be bound by the Association's selection of its insurer(s) and the amount of insurance coverage carried and kept in force by the Association.
- 15.7 Application of Insurance Proceeds. The proceeds of casualty insurance paid to the Association by an insurer for loss or damage to real and/or personal property upon which the Association carries insurance, shall be applied and paid as follows:
- (A) Common Elements Only. The proceeds paid to the Association for loss of or damage to real property constituting Common Elements only shall be applied to the repair, replacement or reconstruction of such loss or damage. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements, the excess shall be paid by the Association to the Owners of all Units, and their respective mortgagees, as their interests may appear, in shares or proportions equal to the undivided interest appurtenant to each Unit in the Common Elements. If the insurance proceeds shall be

insufficient to pay the cost of the repair, replacement or reconstruction of such Common Elements, the Association shall deposit from any Association reserve fund which may have been established, the difference between the total cost of repairing, replacing or reconstructing such loss or damage and the amount of the insurance proceeds. If no such Association reserve fund has been established, or if any such Association reserve fund has been established and is insufficient to pay the costs of repair, the Association shall assess the amount of the difference against, and collect it from, all Unit Owners as a Common Expense.

- (B) Units. The proceeds paid to the Association for loss of or damage to a building containing Common Elements and one (1) or more Units shall be first applied to the repair, replacement or reconstruction of Common Elements, then to the repair, replacement or reconstruction of any Unit or Units in such building which have been destroyed or damaged. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements and Units, the excess shall be paid to the Owners of the damaged or destroyed Unit(s) and their respective mortgagees, as their interests may appear, in shares or proportions equal to the undivided interest appurtenant to each such Unit in the Common Elements. If the insurance proceeds shall be sufficient to pay for the repair, replacement or reconstruction of the Common Elements but shall be insufficient to pay the cost of the repair, replacement or reconstruction of the damaged or destroyed Unit or Units in such building, the Association shall assess the amount of the difference against, and collect the same from all Owners as a Common Expense so long as the damage to the Units is of a nature as to which the Association is required to carry insurance. If it is not, then the affected Unit Owner shall pay the cost. If the insurance proceeds shall be insufficient to pay the cost of the repairs, replacements, or reconstruction of the Common Elements (to which the Association is required first to apply such proceeds before applying any part thereof to the repair, replacement or reconstruction of Units), the difference between the total cost of repairing, replacing, or reconstructing the Common Elements and the amount of the insurance proceeds shall be assessed by the Association against, and collected from, all Unit Owners, as a Common Expense.

15.8 Deposits After Damage. Within sixty (60) days after a loss of or damage to Condominium Property covered by casualty insurance, the Association shall obtain estimates of the cost of repairing, replacing or restoring the same, including the cost of professional fees and any construction bond which the Board of Directors may require. If, from such estimates, it shall appear that the insurance proceeds payable for such loss or damage will be insufficient to pay the cost of such repair, replacement or reconstruction, the additional money required to pay the total cost thereof, whether it is to be paid by one (1) or more Unit Owners, shall be deposited with the Association, not later than thirty (30) days from the day on which the Association receives the insurance proceeds.

15.9 Insurance by Unit Owners. Unit Owners should obtain insurance coverage at their own

expense for their personal property, furnishings and all other contents within the boundaries of their Unit, as the Association is not responsible for insuring the property and contents within the boundaries of the Unit and serving only that Unit. Unit Owners should be advised that neither the Florida Condominium Act nor this Declaration requires the Association to be responsible for insuring, repairing or replacing personal property, furnishings and other items within the boundaries of the Unit, and that the Unit Owners and their own insurers will be financially responsible for same.

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 as provided in Section 15 above. The Association shall be responsible for reconstruction and repair, including the costs thereof in excess of the insurance proceeds from the Association insurance, for all portions of the Unit that it insures and/or is otherwise required to maintain, repair or replace pursuant to this Declaration or the law. The Unit Owner shall be responsible for reconstruction and repair, including the costs thereof in excess of the insurance proceeds from his, her or its insurance, for all portions of the Unit and/or Limited Common Elements that the Owner insures and/or is otherwise required to maintain, repair or replace pursuant to this Declaration or the law. The foregoing notwithstanding, if the Board of Directors determines in its sole and exclusive discretion that due to the nature or the extent of the damage to the Unit or Units that it is in the best interests of the Association that all the reconstruction and repair be made by the Association then the Association shall be entitled to receive all insurance proceeds, contract for the repairs, make the repairs and thereafter distribute the excess unused proceeds of the Owner's insurance, if any, to the Owner(s).

16.2 Damage to Units and 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, unless the Unit Owners vote to terminate the Condominium 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 Damage to Units and Common Elements "Very Substantial". 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 Units cannot reasonably be expected to be rendered habitable within one (1) year 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.
- (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 sixty (60) 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:
  - (i) 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 fifty percent (50%) of the total annual budget for the Condominium in the year in which the casualty occurred, the Condominium shall be repaired and reconstructed unless the Owners otherwise vote to terminate the Condominium.
  - (ii) 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 reconstruction shall constitute economic waste or impossibility as provided in the Act, 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 fifty percent (50%) of the total annual budget for the Condominium in the fiscal year in which the casualty occurred, a vote to terminate the Condominium shall be conducted pursuant to the Act. If the 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 at least two-thirds (2/3rds) of the 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 14 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. For the purposes of this provision, it shall be presumed that repair, reconstruction or rebuilding has occurred within a reasonable period of time if substantial work is commenced within one (1) year following the damage or destruction, and is completed within twelve (12) months thereafter. In the case of "very substantial" damage the condominium will be rebuilt. The Board of Directors shall commence and complete construction as soon as practicable under the circumstances.

16.6 Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original building, or according to different plans and specifications approved by the Board of Directors, by the Owners of at least three-fourths (3/4ths) of the Units, and by the 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 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 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 Association 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 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 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 some or 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) Arbitration. 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. 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 General Common Expenses that are necessitated by condemnation shall be accomplished by amending this Declaration. Such amendment must be approved only by a majority of all Directors, and the consent of Unit Owners or mortgagees is not required for any such amendment.
18. TERMINATION: The Condominium may be terminated at any time as provided in and in accordance with the Condominium Act, as the same may be amended. If the Plan of Termination will result in less than the full satisfaction of the mortgage liens affecting the Units then all mortgagees must approve the Plan of Termination.

## 19. RIGHTS OF MORTGAGEES:

- 19.1 Approvals. Consent of the Institutional Mortgagee of a Unit shall be required for any amendment to the Declaration which would materially decrease the Unit's share of ownership of the Common Elements. Mortgagee approval shall be obtained as provided in and in accordance with F.S. 718.110(11).
- 19.2 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.
- 19.3 Mortgage Foreclosure. If an Institutional Mortgagee holding a first mortgage of record acquires title to a Unit as a result of foreclosure of the mortgage, or as the result of a deed given in lieu of foreclosure, the mortgagee of title shall be liable for the share of Common Expenses and Assessments attributable to the Unit (including without limitation Special Assessments, Specific Assessments, and reasonable legal fees and costs incident to the collection process), which came due prior to the 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 or Assessments for which such acquirer is exempt from liability becomes a Common Expense collectible from all Unit Owners. No acquirer of title to a Unit 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.
- 19.4 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.
- 19.5 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.
- 19.6 Financial Statement. Any Institutional Mortgagee is entitled, upon written request, to a copy of the financial statement of the Association for the immediate preceding fiscal year.
- 19.7 Notices. Upon written request to the Association, any Institutional Mortgagee shall be

entitled to timely written notice of:

- (A) Any sixty (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.

20. AMENDMENT OF DECLARATION: Amendments to this Declaration shall be proposed and adopted in the following manner:

- 20.1 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.
- 20.2 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.
- 20.3 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 who are present and voting, in person or by proxy, at any Annual Meeting or Special Meeting called in accordance with the Bylaws where a quorum is present. The Board of Directors, without a vote of the members, may amend the Condominium Documents to correct scrivener's errors or omissions, and amend and restate the Condominium Documents in order to consolidate into one document amendment 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.
- 20.4 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, in which a 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.
- 20.5 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 Owner of a Unit 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.

## 21. MISCELLANEOUS

- 21.1 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.
- 21.2 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 may be amended from time to time.
- 21.3 Conflicts. If there is a conflict between this Declaration and the Association's Articles 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.
- 21.4 Interpretation. The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be presumed valid and correct and shall binding upon all parties unless wholly unreasonable.
- 21.5 Exhibits. There are 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.
- 21.6 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.
- 21.7 Headings. The headings 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.
- 21.8 Reasonable Accommodations. Notwithstanding anything to the contrary contained herein or elsewhere, the Board of Directors shall make such reasonable accommodations in the rules, regulations and restrictions as required by Federal, State or Local Law, if such accommodations are necessary to afford a disabled person equal opportunity to enjoy and use the Condominium Property. Any such person requesting such an accommodation shall provide the Board of Directors with sufficient medical information such that the Board of Directors can make a meaningful review of the request. Once the reasonable accommodation is no longer required the Property shall only be used in conformance with the Condominium Documents.
22. DISCLAIMER OF LIABILITY OF ASSOCIATION. Notwithstanding anything contained in the condominium documents, the Association shall not be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner, occupant or user of any portion of the condominium property including, without limitation, residents and their

families, guests, visitors, agents, contractors or subcontractors or for any property or any such persons, without limiting the foregoing:

- 22.1 It is the express intent of the condominium documents that the various provisions thereof which are enforceable by the Association and which govern or regulate the uses of the condominium property have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the condominium property and the value thereof.
- 22.2 The Association is not empowered, and has not been created, to act as an entity which enforces or ensures the compliance with the laws of the United States, State of Florida, Collier County and/or any other jurisdiction or the prevention of tortuous activities.
- 22.3 Any provisions of the condominium documents setting forth the uses of assessments which relate to the health, safety and/or welfare shall be interpreted and applied only as limitations on the uses of assessment funds and not as creating a duty of the Association to protect or further the health, safety or welfare of any person(s), even if assessment funds are chosen to be used for any such reason.
- 22.4 Nothing in these condominium documents shall create or imply a duty on the Association to ensure or guarantee the safety and security of the residents and their families, guests, visitors, agents, contractors or subcontractors, and each Owner and resident hereby waives and holds the Association harmless from any claims, injuries or damage related to personal safety and security. Each Owner and resident hereby acknowledges and agrees that they are responsible for securing their own unit.
- 22.5 Each Owner and each other person having an interest in or lien upon any portion of the condominium property shall be bound by these disclaimers and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed herein.
- 22.6 As used herein "Association" shall include with its meaning all of the Association's Directors, Officers, committee members, employees, agents, contractors (including management companies), subcontractors, successors and assigns.

### **EXHIBITS**

Exhibit "A"- Description of land submitted to the condominium form of ownership by the original declaration and amendments thereto.

Exhibit "B" - Survey and Plot Plans attached to the amended Declaration and amendments thereto.

Exhibit "C" - Second Amended and Restated Articles of Incorporation.

Exhibit “D” - Second Amended and Restated Bylaws.

Exhibit “E” – Schedule of Percentage of Ownership by Each Unit of the Common Elements

Exhibit “F” – Building and Unit Identification List

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

**SECOND AMENDED AND RESTATED BYLAWS**  
**OF**  
**GULF WINDS EAST CONDOMINIUM ASSOCIATION, INC.**

1. **GENERAL.** These are the Second Amended and Restated Bylaws of Gulf Winds East Condominium Association, Inc., hereinafter the “Association”, a corporation not for profit organized under the laws of Florida for the purpose of operating a condominium pursuant to the Florida Condominium Act. All prior Bylaws are here revoked and superseded in their entirety.

The Declaration of Condominium of Gulf Winds East, a condominium was originally recorded in Official Records Book 509, Page 165, Public Records of Collier County, Florida, and was thereafter amended by that certain Amendment recorded in Book 939, Page 1171 of the Public Records of Collier County, Florida and was thereafter amended by that certain Amendment recorded in Book 3563, Page 980 of the Public Records of Collier County, Florida

- 1.1 **Principal Office.** The principal office of the Association is at 1020 Manatee Road, Naples, Florida 34114.
- 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, 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 Section 4 of the Declaration of Condominium shall also apply to terms used in these Bylaws.
- 1.4 **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.

2. **MEMBERS.**

- 2.1 **Qualifications.** The members of the Association shall be the record owners of legal title to the units. 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 after all the following events have occurred.



- A. Delivery to the Association, if required, of a written designation of a primary occupant.
- B. Approval by the Board of Directors as provided for in Section 13 of the Declaration of Condominium.
- C. Recording in the Public Records of a Deed or other instrument evidencing legal title to the Unit in the member.
- D. Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.

**2.2 Voting Interests.** The members of the Association are entitled to one (1) vote for each Unit owned by them. The total number of possible votes (the “voting interests”) is equal to the total number of Units. The vote of a Unit is not divisible. The right to vote may be suspended because of delinquent Assessments and/or other charges. If a unit is owned by one natural person, their right to vote shall be established by the record title to the Unit. If a Unit is owned jointly by two or more natural persons, that Unit's vote shall be cast by any one of the recorded owners. If two or more owners of a Unit do not agree among themselves how their one vote shall be cast, that vote shall not be counted for any purpose. If the Owner of the Unit is not a natural person, the vote of that Unit shall be cast by the unit's primary occupant designated as set forth in Section 13.1 of the Declaration of Condominiums.

**2.3 Approval or Disapproval of Matters.** When the discussion 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 Owners is specifically required

**2.4 Change of Membership.** Following written approval of the Association, as elsewhere required herein, a change of membership in the Association shall be established by the new member's membership become effective as provided in Section 2.1 above, at that time the membership of the prior Owner shall automatically terminate.

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

### **3. MEMBER'S MEETINGS; VOTING.**

**3.1 Annual Meeting.** There shall be an annual meeting of the members in each calendar year. The annual meeting shall be held in Collier County, Florida,

each year during the first quarter of the calendar year at a day, place and time designated by the Board of Directors, for the purpose of transacting any business duly authorized to be transacted by the members. During the annual meeting all ballots cast in the annual election of Directors shall be counted and results announced.

- 3.2 Special Members' Meeting.** Special members' meeting must be held whenever called by the President or by a majority of the Directors, and may also be called by members having at least ten (10%) of the voting interest. The business at any special meeting shall be limited to the items specified in the notice of meeting.
- 3.3 Notice of Members' Meetings.** Notice of members meetings, including a recall meeting and the annual meeting, which must include an identification of agenda items, must state the time, date, and place of the meeting, and shall be delivered or mailed to each unit owner by first class mail, unless waived in writing, at least 14 days prior to the meeting. An officer of the Association or the Manager shall execute an affidavit of mailing or delivery per Section 718.112(2) (d) (3), Fla. Stat., or provide a United States Postal Certificate of Mailing which shall be retained in the official records of the Association as proof of such mailing or delivery. Written notice of the meeting shall also be posted in a conspicuous place on the Condominium property at least 14 continuous days prior to the members' meeting. The Board, upon notice to unit owners shall duly adopt a rule designating a specific location on the Condominium property upon which all notices of unit owner meetings shall be posted. The notice shall also be posted in a digital format on the Association's website.
- 3.4 Quorum.** A quorum at members' meeting shall be attained by the presence, either in person or by proxy, of persons entitled to cast at least one third (1/3) of the votes of the entire membership.
- 3.5 Vote Required.** The acts approved by a majority of the votes cast 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 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. Proxies may not be used in electing Directors. Limited proxies shall be used for votes taken to waive reserves or financial statement requirements, to amend the Condominium Documents and for all other substantive matters for which the Condominium Act requires or permits a vote of the members. General proxies may be used for other matters for which limited proxies are not required, and may be used in voting for non-substantive changes to items for which a limited proxy is required and given. A proxy may be given by any person entitled to vote, but shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting, and no proxy is valid longer than ninety (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 a 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 at or before the appointed time of the meeting or reconvening thereof. An executed photographic, photostatic or electronically transmitted equivalent reproduction of a proxy appearing to have been transmitted by the proxy giver is a sufficient 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 substantiate another person to hold the proxy.

**3.7 Adjourned Meetings.** Any duly called meeting of the members may be adjourned to be reconvened at a specific later time by vote of the majority of the voting interests present, regardless of whether a quorum has been attained. When a meeting is so adjourned, the Association shall give further notice of the time and place of its continuance and shall also announce the same 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.

**3.8 Order of Business.** The order of business at members' meeting shall be substantially as follows:

- A. Counting of ballots in annual election (if necessary).
- B. Call of the roll or determination of quorum.
- C. Proof of Notice of Meeting and Affidavit of Mailing
- D. Reading or disposal of any unapproved minutes.
- E. Reports of Officer.
- F. Reports of Committees.
- G. Unfinished Business.
- H. New Business.
- I. Adjournment.

**3.9 Minutes and Inspection of Records.** Minutes of all meetings of Unit Owners and of the Board of Directors shall be kept in a businesslike manner, shall be reduced to written form within thirty (30) days, and kept for a period of seven (7) years after the meeting. These minutes, plus records of all receipts and expenditures and all other official records, as defined in Section 718.111, Fla. Stat., except those which may be exempted by the Condominium Act and or the Rules of the Division of Florida Land Sales, Condominiums and Mobile Homes from time to time, shall be available for inspection by the unit owners and Board members within ten (10) working days after receipt of a written request by the Board or its designee. This provision shall be deemed to have been complied with by providing a copy or having a copy of the official records made available for inspection or copying on the Condominium or Association property. Provided, however, that pursuant to the Condominium Documents and Section 718.111, Fla. Stat., as may be amended from time to time, the Board of Directors may adopt, in advance and in written form, reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying.

**3.10 Parliamentary Rules.** Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the law, with the Declaration, or with these Bylaws. The presiding officer 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.

**3.11 Action by Members Without Meeting.** Except for the holding of the annual meeting, any action required or permitted to be taken at a meeting of the members may be taken by mail without a meeting if written ballots or other instruments indicating approval of the action proposed to be taken are signed and returned by members having not less than the minimum number of votes that would be necessary to take such action at a meeting, or majority of the total votes of the entire membership, whichever is greater, unless a lesser vote is sufficient by law. If the requisite number of written expressions of approval are received by the Secretary within thirty (30) days after mailing notice of the proposed action to the members, a resolution passed by the Board of Directors on the action so authorized shall be of full force and effect as if the action had been approved by the vote of the members at a members' meeting held on the date of the Board meeting. Within ten (10) days after adopting the resolution, the Board shall send written notice of the action taken to all members who have not consented in writing. Nothing in this paragraph shall be construed in derogation of members' rights to call a special meeting of the membership, as provided in Section 3.2 above. If the vote is taken by the method described in this Section, the list of Unit Owners on record with the Secretary at the time of mailing the voting material shall be the list of qualified voters.

**4. BOARD OF DIRECTORS.** The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles of Incorporation, and these Bylaws, shall be exercised by the Board, subject to approval or consent of the Unit Owners only when such is specifically required.

**4.1 Number and Terms of Service.** The number of Directors which shall constitute the whole Board of Directors shall be seven (7). All Directors shall be elected for two (2) year staggered terms. A Director's term will end at the annual election at which his successor is to be duly elected, unless he sooner resigns or is recalled as provided in Section 4.5 below. Directors shall be elected by the members as described in Section 4.3 below, or in the case of a vacancy between annual elections, as provided in Section 4.4 below.

**4.2 Qualifications.** Each Director must be a member of the Association.

**4.3 Elections.** In each annual election the members shall elect by written ballot as many Directors as there are regular terms of Directors expiring, unless the balloting is dispensed with as Provided for by law. The Association may conduct elections and other unit owner votes through an

Internet-based online voting system provided the requirements of Section 718.128, Fla. Stat., are met.

- A. Not less than sixty (60) days before a scheduled election, the Association shall mail or deliver, whether by separate Association mailing or included in another Association mailing or delivery included regularly published newsletters, to each unit owner entitled to vote, the first notice of the date of the election. It must contain the name and correct mailing address of the Association. Any unit owner or other eligible person desiring to be a candidate for the Board of Directors must give written notice to the Association not less than forty (40) days before a scheduled election. Not less than fourteen (14) days before the scheduled election the Association shall then mail or deliver a second notice of the election to all unit owners entitled to vote therein, together with a written ballot which shall list all candidates. Upon request of a candidate, the Association shall include an information sheet which must be furnished by the candidate not less than thirty-five (35) days before the election, on one side of a sheet, no larger than 8 1/2 inches by 11 inches, with the costs of copying and mailing to be borne by the Association. The Association shall have no liability for its contents but shall not edit, alter, or otherwise modify the content of the information sheet. However, in order to reduce costs, the Association may print or duplicate the information sheets on both sides of the paper.
- B. A voting machine may also be used by those attending the meeting in person, and a Unit Owner who needs assistance in voting due to blindness, disability, or inability to read or write may obtain assistance from a member of the Board of Directors or other Unit Owner but no Unit Owner shall permit another person to cast his ballot and any such ballots improperly cast shall be deemed invalid.
- C. There is no quorum requirement; however, at least twenty percent (20%) of the eligible voters must cast a valid ballot to have a valid election and elections shall be decided by a plurality of those votes cast.
- D. An election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the Board of Directors.
- E. In the event of a tie for a designated position of the Board, the tie shall be resolved by agreement of the candidates, if possible, otherwise, a runoff election shall be held in accordance with Rule 61B-23.0021 of the Florida Administrative Code.

- 4.4 **Vacancies on the Board.** If the office of any Director becomes vacant for any reason, a successor, or successors to fill the remaining unexpired term or terms shall be appointed or elected as follows:

- A. If a vacancy is caused by the death, disqualification, or resignation of a Director, a majority of the remaining Directors, though less than a quorum, shall appoint a successor. In the alternative, at the option of the Board, the successor may be elected by secret ballot of the members in a special election conducted in conjunction with a special meeting of the members. Any successor appointed or elected pursuant to this Section 4.4(A) . shall serve the entire remaining term of his predecessor.
- B. If a vacancy occurs as a result of a recall and less than a majority of the Directors are removed, the vacancy may be filled by appointment by a majority of the remaining Directors, though less than a quorum, provided however, that a Director who has been recalled by the membership may not be appointed to fill the vacancy created by his removal. If vacancies occur as a result of a recall in which a majority or more of the Directors are removed, the vacancies shall be filled as provided by law.

**4.5 Removal of Directors.** Any or all Directors may be removed with or without cause by a majority vote of the entire membership, either by a written petition or at any meeting called for that purpose in the manner provided in the Condominium Act. If a meeting is held or a petition is filed for the removal of more than one Director, the question shall be determined separately as to each Director sought to be removed. If a special meeting is called by ten percent (10%) of the voting interests for the purpose of recall, the notice of the meeting must be accompanied by a dated copy of the signature list, stating the purpose of the signatures. The meeting must be held not less than ten (10) days or more than sixty (60) days from the date when the notice of the recall meeting is mailed or delivered.

**4.6 Organizational Meeting.** The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election of new Directors, at such place and time as may be fixed and announced by the Directors at the meeting in conjunction with which they were elected.

**4.7 Other Meetings.** Meetings of the Board 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, facsimile machine, or telegram at least two (2) days prior to the day named for such meeting.

**4.8 Notice to Owners.** All meetings of the Board of Directors shall be open to members. A notice and agenda for each Board meeting shall be posted conspicuously on the condominium property or Association property for at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency. Upon Prior notice to the Unit Owners, the Board shall by duly adopted rules designate a specific location on the Condominium property upon which all notices of Board meetings shall be

posted. Notice of any board meeting at which a non-emergency special assessment or rule restricting the use of Units may be approved shall be mailed to each Owner at least fourteen (14) days before the meeting, except in an emergency, and an affidavit of mailing shall be retained as proof of mailing. Notice of any meeting at which a non-emergency special assessment will be considered, must specifically state that assessments will be considered and provide the estimated costs and description of the purpose of any such assessments. Notice of any board meeting at which a budget will be adopted or amended shall be given as stated in Section 6.2 below. The right of Owners to attend Board meetings includes the right to speak on designated agenda items, subject to reasonable rules of the Association governing the manner, duration and frequency of doing so. All notices shall also be posted in a digital format on the Association's website.

**4.9 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.

**4.10 Quorum of Directors.** A quorum at a Board meeting shall exist when at least a majority of all Directors are present in person at a duly called meeting. Directors may participate in any meeting of the Board, by a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting. Directors may not vote or participate by proxy or by secret ballot at Board meetings, except that officers may be elected by secret ballot. Informal gatherings of a quorum of Board members discussing Association business is prohibited.

**4.11 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 applicable statutes. A Director who is present at a meeting of the Board shall be deemed to have voted in favor of any action taken, unless he voted against such action or abstained from voting because of an asserted conflict of interest. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes. Absent Directors may later sign written joinders in Board actions, but such joinders may not be used for purposes of creating a quorum.

**4.12 Adjourned Meetings.** The majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date. At any reconvened meeting, provided a quorum is present, any business may be transacted that might have been transacted at the originally called meeting.

- 4.13 The Presiding Officer.** The President of the Association, or in his 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 majority vote of the Directors present.
- 4.14 Compensation of Directors and Officers.** Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.
- 4.15 Committees.** The Board of Directors may appoint, from time to time such standing or temporary committees as the Board may deem 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. If a committee has delegated to it the authority to bind the Association, to act for and in the place of the Board or to make recommendations to the Board regarding the Association budget, the committee shall hold its meetings and give notice of such meetings with the same formalities as required for Board meetings. Meeting of all other committees shall be exempt from these requirements. Committees for the purpose of nominating candidates for election to the Board of Directors are prohibited. The Board, however, may appoint a search committee to encourage qualified persons to become candidates for the Board.
- 4.16 Emergency Powers.** In addition to the below, the Board of Directors shall have those emergency powers set forth in Ch. 617, Fla. Stat. and the Condominium Act, as the same may be amended from time to time. The following shall apply to the extent not viewed to be in conflict with the Condominium Act.
- A. In anticipation of or during any emergency defined in Paragraph (E) below, the Board of Directors of the Association may:
1. Modify lines of succession to accommodate the incapacity of any Director, officer, employee or agent of the Association; and
  2. Relocate the principal office or designate alternative offices or authorize the officers to do so.
- B. During an emergency defined in Paragraph (E) below:
1. Notice of a meeting of the Board of Directors need be given only to those Directors whom it is practicable to reach and may be given in any practicable manner, including by publication and radio;
  2. One or more officers of the Association present at a meeting of the Board of Directors may be deemed to be Directors for the



meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum; and

3. The Director or Directors in attendance at a meeting shall constitute a quorum.
- C. Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association:
1. Binds the Association; and
  2. May not be used to impose liability on a Director, officer, employee, or agent of the Association.
- D. An officer, Director or employee of the Association acting in accordance with any emergency powers or Bylaws is only liable for willful misconduct.
- E. An emergency exists for purposes of this Section if a quorum of the Association's Directors cannot readily be assembled because of some occurrence or imminent occurrence of a catastrophic event such as a hurricane, pandemic, act of war, civil unrest or terrorism or other similar event. An "emergency" also exists during the period of time that civil or law enforcement authorities have declared that a state of emergency exists in, have declared a hurricane warning, or have ordered the partial or complete evacuation of the area in which Gulf Winds East is located or have declared that area a "disaster area." A determination by any two (2) Directors, or by the President, that an emergency exists shall have presumptive validity.

## **5. OFFICERS.**

- 5.1 Officers and Elections.** The executive officers of the Association shall be a President and a Vice-President, who must be Directors, a Treasurer, and a Secretary, all of whom shall be elected annually by a majority of the Board of Directors. Any officer may be removed with or without cause by vote of a majority of all Directors at any meeting. Any person, except the President, may hold two or more offices. The Board of Directors, from time to time, may appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President.
- 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 an active management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. He 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, in the absence or disability of the President, shall perform the duties and exercise the powers of the President; and they shall perform such other duties as the Board of Director shall assign.

**5.4 Secretary.** The Secretary shall attend all meetings of the 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. He shall give or cause to be given, notice of all meetings of the members and the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. He shall keep in safe custody the seal of the Association and, when authorized by the Board, affixed 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 one has been designated.

**5.5 Treasurer.** The Treasurer shall be responsible for Association funds and securities, the keeping of full and accurate accounts of receipts and disbursements in books belonging to the Association, and the deposit of all monies and other valuable affects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He 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, 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. Further, the Treasure's duties may be assisted and/or carried out through the Board retaining qualified financial professional(s) as the Board deems necessary and appropriate from time to time.

**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 in funds in federally insured accounts in financial institutions in the State of Florida and investment vehicles as shall be designated from time to time by the Board. Withdrawal of monies from such account shall be only by such persons as are authorized by the Board. Reserve and operating funds shall not be commingled except to the extent permitted by the Condominium Act, as amended from time to time.

- 6.2 Budget.** The Board of Directors shall adopt a budget of common 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 at which the budget will be adopted shall be mailed to or served on the Owner of each Unit not less than fourteen (14) days prior to that meeting. The proposed budget shall be detailed and shall show the amounts budgeted by income and expense classifications. An officer or manager of the Association, or other person providing notice of such meeting, shall execute an affidavit evidencing compliance with such notice requirement, and such affidavit shall be filed among the official records of the Association.
- 6.3 Statutory Reserves for Capital Expenditures and Deferred Maintenance.** In addition to annual operating expenses, the proposed budget must include reserve accounts for capital expenditures and deferred maintenance as required by law. These accounts shall include, but are not limited to, roof replacement, building painting, pavement resurfacing, and any other item for which the deferred maintenance expense or replacement cost exceeds \$10,000.00. The amount to be reserved shall be computed by a formula based upon estimated life and replacement cost of each item. Methods for funding reserves can be the straight line method or pooled reserve method. These reserves shall be fully funded unless the members subsequently determine at a duly called meeting by vote of a majority of the voting interests in person or by limited proxy to fund no reserves or less than adequate reserves for fiscal year. The vote to waive or reduce reserves, if any is taken, may be taken only after the proposed budget has been mailed to the Unit Owners as required in Section 6.2 above. Reserves funded under this paragraph, and all interest earned on such reserves, shall be used only for the purpose for which they were reserved, unless their use for other purposes is approved in advance by majority vote at a duly called members meeting.
- 6.4 Other Funds.** In addition to the statutory reserves provided in Section 6.3 above, or in place of them if the members so vote, the Board may establish one or more additional accounts for contingencies, operating expenses, repairs, minor improvements, or deferred maintenance. The purpose of these funds is to provide financial stability and to avoid the need for special assessments on a frequent basis. The amount proposed to be so funded shall be shown in the proposed annual budget each year. These funds may be spent for any purpose approved by the Board.
- 6.5 Assessments.** Regular annual assessments based on the adopted budget shall be paid in quarterly installments, in advance, due 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 fifteen (15) days prior to the due date. Failure to send or receive such notice shall not excuse the obligation to pay. If an annual budget has not been adopted at the time the first quarterly installment for a fiscal year is due, it shall be presumed that the amount of such installments is the same as a last quarterly payment, 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 calculated shall be added or subtracted from each unit's next due quarterly installment.

**6.6 Special Assessments.** Special Assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted, or non-reoccurring expenses and as otherwise permitted by the Condominium Documents and/or the Condominium Act, as amended from time to time. Special assessments are due on the day specified in the resolution of the Board approving such assessments. The notice of any Board meeting at which a special assessment will be considered shall be given as provided in Section 4.8 above; and the notice to the owners that the assessment has been levied must contain a statement of the purpose(s) of the assessment. The funds collected must be spent for the stated purpose(s) or returned to the members as provided by law.

**6.7 Fidelity Bonds.** The President, Secretary, Treasurer, and all other persons who control or disburse Association funds, shall be bonded in such amounts as may be required by law or otherwise determined by the Board of Directors. The premiums on such bonds shall be a common expense.

**6.8 Financial Reports; Statements.** A complete financial report of actual receipts and expenditures of the Association for the preceding fiscal year shall be made annually by April 30th of each year which shall comply with Section 718.111(13), Fla. Stat., Not later than the deadline set forth in Section 718.111(13), Fla. Stat., the Association shall mail each owner at the address last furnished to the Association by the owner, or hand delivered to each owner, a copy the financial report or a notice that a copy of the financial report may be mailed, or hand delivered to the owner, without charge, upon which receipt of a written request from the owner.

**6.9 Audits.** A formal, certified audit of the accounts of the Association, if required by law, by vote of a majority of the voting interest, or by a majority of the Board of Directors, shall be made by a certified public accountant, and a copy of the audit report shall be available to all members.

**6.10 Fiscal Year.** The fiscal year for the Association shall begin on the first day of January of each calendar year. The Board of Directors may change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed in the Internal Revenue Code of the United States of America.

**7. RULES AND REGULATIONS.** The Board of Directors may from time to time, adopt and amend administrative 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. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of health, happiness, and peace of mind of the Unit Owners and uniformly applied and enforced.

8. **COMPLIANCE AND DEFAULT; REMEDIES.** In addition to the remedies provided in the Condominium Documents and Condominium Act, as amended from time to time, the following provisions shall apply:

8.1 **Fines.** The Board of Directors may levy fines against Units whose Owners commit violations of the Condominium Act, the provisions of the Condominium Documents or the rules and regulations, or condone such violations by their family members, guests, or lessees. The fines shall be in an amount deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amount allowed by law (currently \$100 per violation for each day the violation continues not to exceed \$1,000 in the aggregate), and no fine may be levied against an unoccupied Unit. A fine may be levied on the basis of each day of a continuing violation after a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed the maximum amount allowed by law (currently \$1,000.00). The procedure for imposing fines shall be as follows:

- A. The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days, and the notice shall include:
  - 1. A statement of the date, time, and place of the hearing;
  - 2. A specific designation of the provisions of the Declaration, Bylaws or rules and regulation which are alleged to have been violated; and,
  - 3. A short and plain statement of the specific facts giving rise to alleged violation(s); and
  - 4. The amount of any proposed fine.
- B. At the hearing, the party against whom the fine may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral arguments on all issues involved, and to review, challenge, and respond to any evidence or testimony by the Association. The hearing shall be conducted before a committee of at least three members appointed by the Board 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, by majority vote, does not agree with the fine, it may not be levied
- C. The foregoing notwithstanding, as provided in Section 718.303(4), Fla. Stat., no prior notice or opportunity for a hearing is required for the imposition of a fine or suspension upon any member because of the failure of the member to pay assessments or other charges when due.

**8.2 Mandatory Non-Binding Arbitration.** In the event of any “dispute” as defined in Section 718.1255(1) Fla. Stat., between a Unit Owner and the Association arising from the operation of the Condominium, the parties must submit the dispute to mandatory non-binding arbitration under the rules of Division of Florida Land Sales, Condominiums and Mobile Homes prior to filing any lawsuit over the disputed matters. Nothing herein shall be construed to require arbitration of disputes related to the levy or collection of fees or assessments.

**8.3 Availability of Remedies.** Each member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy the condominium property free from unreasonable restraint and annoyance.

**9. CONTRACTS FOR PRODUCTS AND SERVICES; REQUIREMENT.** All contracts for the purchase, lease, or renting of materials or equipment or for services, or which are not to be fully performed within one year, shall be in writing. As to any such contract which requires payment, exceeding five percent (5%) of the total annual budget of the Association, including reserves, except for contracts with employees of the Association, and for attorneys, accountants, architects, engineering and landscape architects, the Association shall obtain competitive bids unless the products and services are needed as the result of an emergency or unless the desired supplier is the only source of supply within Collier County. The Association need not accept the lowest bid. If a contract was awarded by a competitive bid process, any renewal of the contract is not subject to competitive bid requirement if such contract contains a provision that allows the Board of Directors to cancel on thirty (30) days' notice. This Paragraph shall be deemed to incorporate the provisions of the Condominium Act as it exists from time to time including the right of the Association to opt out of the requirements of this Paragraph.

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

**10.1 Proposal.** Amendments to these Bylaws may be proposed by a majority of the Board or upon the written petition signed by at least one fourth (1/4th) of the voting interests.

**10.2 Procedure.** Upon any amendment or amendments to these Bylaws being proposed by said Board or unit owners, such proposed amendment or amendments shall be submitted to a vote of the Owners and not later than the next annual meeting for which proper notice can be given.

**10.3 Vote Required.** Except as otherwise provided by law, or by specific provision of the Condominium Documents, a proposed amendment to these Bylaws shall be adopted if it 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 called for the purpose, provided that notice of the proposed amendment has been given to the members in accordance with law.

- 10.4 Recording; Effective Date.** A copy of each amendment shall be attached to a certificate that the amendment was duly adopted which certificate shall be executed by officers 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. The certificate must identify the book and page of the Public Records where the Declaration of Condominium was originally recorded.

**11. MISCELLANEOUS.**

- 11.1 Severability.** Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.
- 11.2 Conflict.** If any irreconcilable conflict should exist or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration of Condominium or Articles of Incorporation, the provisions of the Declaration or Articles of Incorporation shall prevail over the provisions of these Bylaws.
- 11.3 Fire Safety Compliance.** The Board of Directors may accept a Certificate of Compliance from a licensed electrical contractor or electrician as evidence of compliance of the units with the applicable Fire and Life Safety Code.