

This Instrument Prepared By:
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**AMENDED AND RESTATED
CONDOMINIUM DECLARATION
OF
CASA BONITA ROYALE**

(SUBSTANTIAL REWORDING OF DECLARATION AND BYLAWS. PLEASE SEE ORIGINAL DECLARATION AS RECORDED IN OFFICIAL RECORDS BOOK 1254, PAGES 1012-1048 ET SEQ., AS LATER AMENDED IN OFFICIAL RECORD BOOK 1829, PAGE 463; AS LATER AMENDED IN OFFICIAL RECORD BOOK 2941, PAGES 1476-1489; AS LATER AMENDED IN OFFICIAL RECORD BOOK 3254, PAGES 933-938; AS LATER AMENDED IN INSTRUMENT NO. 2007000267349; AS LATER AMENDED IN INSTRUMENT NO. 2011000097119; AND AS LATER AMENDED IN INSTRUMENT NO. 2011000133987; ALL IN THE PUBLIC RECORDS FOR LEE COUNTY, FLORIDA.)

The Association, as representatives of the members in *Casa Bonita Royale Condominium*, pursuant to the amendment powers contained in the Condominium Declaration, Articles of Incorporation, the Bylaws and Florida Statutes, after proper notice and discussion, and after recommendation and approval, file this Amended and Restated Condominium Declaration and Bylaws.

1. **CONFIRMATION OF PRIOR STATEMENT OF CONDOMINIUM SUBMISSION:** The Owners of Units of *Casa Bonita Royale Condominium*, do hereby confirm the statements of original Condominium as reflected in the Public Records of Lee County, Florida as follows: Statement of Condominium Submission, Official Record Book 1254 at Pages 1012-1048 et seq., in the Public Records of Lee County, Florida.

2. **DEFINITIONS.** The terms used in this Declaration and its exhibits shall have the meanings stated below and in Chapter 718, Florida Statutes, unless the context otherwise requires.

2.1 **"Act" or "Condominium Act"** means the Condominium Act, Chapter 718, Florida Statutes (2012) including the definitions therein contained.

2.2 **"Articles"** means Articles of Incorporation for the Condominium.

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2.3 "Assessment" means a share of the funds required for the payment of Common Expenses, which from time to time is assessed against the Unit Owner, and such additional sums which may be assessed directly against the Unit.

2.4 "Association" means Casa Bonita Royale Condominium Association, Inc., a Florida corporation not for profit, the entity responsible for the operation of the Condominium.

2.5 "Association Property" means all real property, owned or leased by the Association for the use and benefit of the Unit Owners.

2.6 "Board of Directors" or "Board" or "Directors" means the representative body which is responsible for the administration of the Association's affairs, and which is the same body that is sometimes referred to in the Condominium Act as the "Board of Administration". Each Director must be a Unit Owner, or Primary Occupant (in case of Units that designate a Primary Occupant), the spouse of a Unit Owner or Primary Occupant, the settlor or grantor of a trust, which owns a Unit, or the spouse of such party, a beneficiary as defined in Section 737.303(4)(b), Florida Statutes, (2012) of a trust which owns a Unit, provided said beneficiary occupies the Unit, or the spouse of such party.

2.7 "Building" means the structure or structures in which the Units are located, regardless of the number thereof.

2.8 "Bylaws" means the Bylaws of the Association as attached hereto as Exhibit "E."

2.9 "Charge" means any legal or equitable indebtedness to the Association incurred by, or on behalf of, a Unit Owner, other than Assessments for Common Expenses. Said obligations may arise by oral or written contract, by law or in equity, or may be created by these Condominium Documents.

2.10 "Common Elements" mean and include those portions of the Condominium Property not included in the Units, and as further described in Article 5 and the Act.

2.11 "Common Expenses" means those expenses for which Unit Owners are liable to the Association, including but not limited to expenses of administration, maintenance and operation, repair and replacement of Common Elements and such other expenses as may be declared expenses either by this Declaration, the Articles of Incorporation, the Bylaws or by the Association. Common expenses include, but are not limited to, such items as cost of premiums for hazard and public liability insurance, repairs, replacements and expenses of upkeep, lawn service, utility bills, including any allocable share of expenses related to any sewage treatment plant and any septic field as further described on Exhibit "B" that provides service to Casa Bonita Royale, pool service, janitor service, accounting and legal fees, wages and fees for managerial and other services, and reasonable and adequate reserves, all as may be required in the maintenance and management of this Condominium.

To the extent that the Association enters into a bulk cable or master antenna television contract, the expenses of bulk cable or master antenna television, and any bulk interior pest control, are specifically considered a Common Expense, if so designated by the Board. Common Expenses also include reasonable insurance for Directors and Officers, road maintenance and operation expenses and security services, which are reasonably related to the general benefit of the Unit Owners even if such expenses do not attach to the Common Elements or property of the Condominium.

2.12 **"Common Surplus"** means the excess of all receipts of the Association, including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements, above the amount of the Common Expenses.

2.13 **"Condominium Documents"** means this Declaration; the legal description designated as Exhibit "A" and condominium survey plat and floor plans shown attached hereto as Exhibit "B"; the revised dock slip layout and parking plan set forth as Exhibit "C"; Articles of Incorporation of Casa Bonita Royale Condominium Association, Inc.; Bylaws attached hereto as Exhibit "D", Rules and Regulations attached as Exhibit "E". The Rules and Regulations and any subsequent amendments thereto need not (but may) be recorded in the Lee County Public Records in order to be valid.

2.14 **"Condominium Parcel"** means a Unit together with the undivided share in the Common Elements which is appurtenant to said Unit and when the context permits, the term includes all of the appurtenances to the Unit.

2.15 **"Condominium Property"** means the Land and property interests subjected to Condominium ownership under this Declaration, all original improvements on the Land (or replacements thereof), and all easements and rights appurtenant thereto intended for use in connection with the Condominium.

2.16 **"County"** means the County of Lee, State of Florida.

2.17 **"Declaration" or "Condominium Declaration"** means this instrument, and as it may be amended from time to time.

2.18 **"Family" or "Single Family"** shall refer to any one of the following:

2.18.1 One natural person, his or her spouse, if any, and their custodial children, if any.

2.18.2 Not more than two (2) natural persons not meeting the requirement of 2.18.1 above, but who customarily reside, live and cook together as a single housekeeping unit, and the custodial children of said parties, if any.

2.18.3 Three (3) or more natural persons residing, living and cooking together as a single housekeeping unit wherein no more than one (1) such person is not related to all other such natural persons by blood, marriage or legal adoption.

The reference to "natural" herein is intended to distinguish between an individual and a corporation or other artificial entity. "Family Member" is a person who resides in a Unit as part of the Owner's Family, but is not a title holder.

2.19 **"Fixtures"** means those items of tangible property which by being physically annexed or constructively affixed to the Unit have become accessory to it and part and parcel of it, including but not limited to, interior partitions, walls, appliances which have been built in or permanently affixed, and plumbing fixtures in kitchens and bathrooms, and light fixtures.

2.20 **"Fractional Ownership" or "House Sharing"** means any arrangement (whether written or verbal) whereby multiple individuals, artificial entities, or other combinations acquire title to a Unit (or any other possessory or use right in a Unit) with the intention of allocating use rights among legal or beneficial Owners, whether pursuant to verbal or written agreements, regarding the sharing of use and possession rights for a Unit.

2.21 **"Guest"** means any person who is not the Unit Owner or a Tenant or a member of the Owner's or Tenant's Family, who is physically present in, or occupies the Unit on a temporary basis at the invitation of the Owner or other legally permitted occupant, without the payment of consideration.

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

2.23 **"Insurable Improvements"** shall mean the "Building" as defined in Section 2.7 of this Declaration, less upgrades or additions by Unit Owners (or their predecessors in title) and those portions of the Condominium Property required by the Act to be insured by the Association.

2.24 **"Invitee" or "Licensee"** shall mean a person or persons allowed entry for the purpose of conducting business with a Unit's occupant, or otherwise entering the Condominium Property on a temporary basis at the express or implied consent of the Unit Owner.

2.25 "**Lease**" means the grant by a Unit Owner of a right of use of the Owner's Unit for consideration.

2.26 "**Limited Common Elements**" shall include property which is reserved for the use of a certain Unit to the exclusion of other Units as reflected on the Surveyor's Plat or in this Declaration, including, but not limited to, assigned parking or storage spaces. Whenever a portion of the Condominium Property naturally and exclusively services a particular Unit, and where the area in question lies outside of the boundaries of the Unit, the delegation of maintenance responsibility for the area (e.g. air conditioning compressors) shall serve to define the area as a Limited Common Element.

2.27 "**Limited Common Expense**" means those expenses affiliated with the maintenance, repair, replacement, or reconstruction after casualty of a Limited Common Element, the costs of which are assessed only against the benefitting Unit Owner(s), as authorized by Section 718.113(1) of the Act, and if so provided in this Declaration.

2.28 "**Primary Occupant**" means a natural person designated for occupancy of a Unit when title to the 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.

2.29 "**Rules and Regulations**" means those Rules and Regulations promulgated by the Board of Directors, governing the use, occupancy, alteration, maintenance, transfer and appearance of Units, Common Elements and Limited Common Elements, and the operation and administration of the Association subject to any limits set forth in the Condominium Declaration.

2.30 "**Tenant**" or "**Lessee**" means a person occupying a Unit, other than the Owner, whether pursuant to a verbal or written agreement, where said occupancy by the non-owner involves consideration, the payment of money, the exchange of good and services, etc.

2.31 "**Unit or Apartment**" means a part of the Condominium Property subject to exclusive ownership.

2.32 "**Unit Owner**" or "**Owner**" has the same meaning as the term "Unit Owner" as defined in the Condominium Act, except that for the purpose of interpreting use and occupancy restrictions related to Units, in cases where a Primary Occupant has been designated for a Unit because of its ownership, the word "Owner" refers to the Primary Occupant and not the record Owner. See also Section 2.28.

2.33 "**Utility Service**" as used in the Condominium Act and as construed with reference to this Condominium, and as used in the Declaration and Bylaws, shall include but not be limited to electric power, gas, hot and cold water, heating, refrigeration, air conditioning and garbage and sewage disposal.

2.34 "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 per Unit in the Association matters. There are forty (40) Units, so the total number of Voting Interests is forty (40).

3. DESCRIPTION OF IMPROVEMENTS; SURVEY AND PLANS.

3.1 Survey and Plot Plans. Attached to this Amended and Restated Declaration as Exhibits "A" and "B" are the legal description and condominium survey 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. Together with this Declaration, the exhibit is in sufficient detail to identify each Unit, the common elements and limited common elements, and their relative locations and dimensions.

3.2 Apartment Building. The Condominium includes one (1) building which is designated as Apartment Building upon said plot. The building includes storage areas, lobbies, elevators, stairs and hall areas located on each level; five Apartments on the first floor and seven Apartments on each of five floors. Each end Apartment contains approximately 1690 square feet and all others approx. 1260 square feet, each consisting of two bedrooms, two baths, kitchen area, living and dining areas, utility area and balconies, and all as more particularly shown on Exhibit B, sheets one through three, attached hereto. "End Apartment" shall mean and include Apartments 101, 107, 201, 207, 301, 307, 401, 407, 501, 507, 601 and 607.

3.3. Other Improvements. The Condominium includes landscaping, boat dockage, a swimming pool, club room, automobile parking, halls, lobby areas, frontage on the waters of an arm of Estero Bay and two easements to the waters of the Gulf of Mexico. All as shown on the plan and which are part of the common elements and limited common elements.

3.4 Apartments. The following provisions shall apply to each Apartment or Unit:

3.4.1. Boundaries. Each Apartment shall include that part of the building containing the Apartment which lies within the boundaries of the Apartment, which boundaries are as follows:

3.4.1.1. Upper and lower boundaries. The upper and lower boundaries of each Apartment shall be the following boundaries extended to an intersection with the perimetrical boundaries:

a. Upper Boundary: The horizontal plane of the lower surfaces of the ceiling slab.

b. Lower Boundary. The horizontal plane of the lower surfaces of the floor slab.*
*(Note: The original declaration contained a scrivener's error when it described the lower boundary of units and that it should have read as follows: "The horizontal plane of the upper surfaces of the floor slab.")

3.4.1.2. Perimetrical Boundaries. The perimetrical boundaries of the Apartment shall be the following boundaries extended to an intersection with the upper and lower boundaries.

a. Exterior Building Walls. The exterior of the outside walls of the Apartment building bounding an Apartment, and where there is attached to the building a loggia, balcony, terrace, canopy, stairway or other portion of the building serving only the Apartment being bound, such boundaries shall be deemed to include all of such structures and fixtures thereon.

b. Interior Building Walls. The vertical planes of the walls bounding an Apartment, extended to intersections with other perimetrical boundaries.

4. CONDOMINIUM PARCELS; APPURTENANCES AND USE.

4.1 Shares of Ownership. The Condominium contains forty (40) Units. The schedule of percentages of ownership in common elements appurtenant to each Unit in this condominium is as follows: Each Unit Owner shall be liable for a 1/40th proportionate share of the common expenses; provided, however, that all "end apartments" which shall mean and include Apartments 101, 107, 201, 207, 301, 307, 401, 407, 501, 507, 601 and 607, shall be assessed and shall be obligated to pay a ten percent (10%) surcharge or greater share of all such costs than all other Units and provided that docks and boat well repairs and improvements shall be assessed to those who receive or have been assigned a boat dock or boat well.

4.2 Appurtenances to Each Unit. The Owner of each Unit has certain rights and owns a certain interest in the condominium property, including without limitation the following:

(A) An undivided ownership share in the Land and other common elements of the Condominium and the common surplus of the Association, as specifically set forth in Section 4.1 above.

(B) Membership and voting rights in the Association, which shall be acquired and exercised as provided in the Articles of Incorporation and Bylaws of the Association.

(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 by law or by this Declaration and its exhibits.

Each Unit and its appurtenances constitutes a "*condominium parcel*."

4.3 *Use and Possession.* A Unit Owner is entitled to exclusive use and possession of his Unit. He is entitled to use the common elements and common areas in accordance with the purposes for which they are intended, but no use may unreasonably interfere with the rights of other Unit Owners or other persons having rights to use the condominium property. No Unit may be divided or any fractional portion sold, leased or otherwise transferred. The use of the Units, common elements, and limited common elements shall be governed by the condominium documents and by the rules and regulations adopted by the Association, through its Board of Directors, as set forth in the Bylaws. Use of the Units is restricted to single family residential purposes only. A Unit may be owned in a trust, or by a corporation, partnership or other entity which is not a natural person, if approved in the manner provided for other transfers of title. Units owned in the name of a corporation, limited liability company, partnership or trust shall be treated as co-owned. Co-ownership of Units is permitted. However, if the co-owners are other than husband and wife, the co-owners shall designate one (1) of the co-owners as the "primary occupant." The use of the Unit by other co-owners shall be as though the primary occupant were the only actual Owner. Those co-owner(s) whom have not been designated as the primary occupant shall be treated as guests of the primary occupant. Both the initial approval and the continued approval of a trustee, corporation, or other entity as an Owner, shall be conditioned upon designation of one (1) natural person to be the "primary occupant", and the use of the Unit by other persons shall be as though the primary occupant were the only actual Owner. Those co-owner(s) whom have not been designated as the primary occupant shall be treated as guests of the primary occupant. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift. No more than one (1) such change shall be approved in any twelve (12) month period. 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 accommodations for several families or individuals.

5. COMMON ELEMENTS; EASEMENTS.

5.1 *Definition.* The term "common elements" means all of the condominium property not included within the Units, and includes without limitation the following:

(A) The Land.

(B) All portions of the buildings, recreational amenities and other improvements on the Land not included within the Units, including limited common elements.

(C) Easements through Units for conduits, ducts, plumbing, wiring, and other facilities for furnishing utility services to Units and the common elements.

(D) An easement of support in every portion of the condominium property that contributes to the support of a building or structure.

(E) The property and installations required for furnishing utilities and other services to more than one Unit or to the common elements.

5.2 ***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 the easements specified in this Section may be encumbered by any leasehold or lien other than those on the condominium parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of Unit Owners with respect to such easements.

(A) ***Utility and other Easements.*** The Association has the power, without the joinder of any Unit Owner, to grant 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, and to grant access easements or relocate any existing access easements in any portion of the common elements, as the Association shall deem necessary or desirable for the proper Operation and maintenance of the Condominium. This power also includes a limited power to convey easements, as provided for in Chapter 73, Florida Statutes. 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.

(B) ***Encroachments.*** If any Unit encroaches upon any of the common elements or upon any other Unit for any reason other than the intentional act of the Unit Owner, or if any common

element encroaches upon any Unit, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.

(C) ***Ingress and Egress.*** A non-exclusive easement shall exist in favor of each Unit Owner and occupant, their respective guests and invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the common elements as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portions of the common elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways. Speed bumps or other traffic control devices may be installed by the Association, and such case, shall not be deemed to unreasonably impair the Owners' easement rights hereunder.

5.3 ***Restraint Upon Separation and Partition.*** The undivided share of ownership in the common elements and common surplus appurtenant to a Unit cannot be conveyed or encumbered separately from the Unit and passes with the title to the Unit, whether separately described or not. No Owner may maintain an action for partition of the common elements. A Unit Owner's interest in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to his Unit.

6. LIMITED COMMON ELEMENTS.

6.1 ***Description of Limited Common Elements.*** Certain common elements have been or may be designated as limited common elements, 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 use has been assigned are as described in this Declaration and as further identified on the original survey and plot plan.

(A) Limited Common Elements.

- (i) Assigned Parking Spaces and Storage Spaces. Each Unit is entitled to the exclusive use of assigned parking spaces and assigned storage spaces as designated on Exhibit "B." These spaces were originally numbered 1 through 40, with one assigned to each Unit. The assigned parking spaces are identified by Apartment or Unit number on the revised Parking Plan which is attached as Exhibit "C" to this Amended and Restated Declaration.
- (ii) Balcony or Lanai. Each Unit has a balcony or lanai for which each Unit is assigned the exclusive use thereof.

- (iii) Docks and Boat Wells. Not all Units have been assigned or have rights to a boat dock slip or boat well. The Association owns or has rights to one (1) boat dock or boat dock well. The remaining twenty-one (21) boat docks or dock wells have been assigned to individual Units. The Association shall maintain, repair, and replace those boat docks or boat wells, but the expenses so incurred shall be borne only by those Units who have been assigned a boat dock or boat well and shall be in addition to each Unit Owner's share of the annual assessment for common expenses.

6.2 Exclusive Use and Transfer of Use Rights. The exclusive right to use a limited common element is an appurtenance to the Unit or Units to which it is designated or assigned. The right of exclusive use of each limited common element passes with the Unit to which it is assigned whether or not separately described, and cannot be separated from it; except that the use rights to particular limited common elements, such as parking spaces, storage spaces or boat dock spaces, may be exchanged between Unit, or transferred to another Unit, as follows:

6.2.1 The Unit Owners desiring to exchange such use rights for assigned parking, storage or boat dock spaces shall execute a Certificate of Transfer in recordable form, which shall include the recording data identifying the Declaration, and be executed by the Owners with the formalities required for the execution of a deed.

6.2.2 The transfer of use rights shall be complete and effective when the Certificate is recorded in the Public Records of the County in which the Declaration is recorded.

6.3. Sale; Dock User Fees. No Apartment Owner may dispose of an Apartment or any interest therein, including, without limitation, a boat dock, by sale without approval of the Association. No boat dock may be assigned or in any other way transferred to anyone who is not an Apartment Owner in the Association. Any assignment or transfer of interest of a boat dock shall require the prior written approval of the Association. Any assignment or transfer without such approval shall be deemed null and void. The Association is the lessee of a twenty-two (22) slip docking facility under a Submerged Lands Lease recorded on July 6, 2001, in Official Records Book 3444, Page 2539 of the Public Records of Lee County, Florida from the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida ("State"). Under the Submerged Lands Lease, the Association is permitted to assign to its members the privilege to use such docks. The Association and its members who are assigned use privileges ("Dock Users") must strictly comply with all terms and conditions of the Submerged Land Lease. Paragraph 2 of the Submerged Land Lease and Section 18-21.011 of the Florida Administrative Code require that certain lease fees be paid to the State for the operation and use of the docking facility. Under these provisions, the Association is obligated to the State for lease fees in situations where a Unit Owner is receiving revenue, directly or indirectly, from the sale or rental of his or her use right to a dock. The State is entitled to six percent (6%) of the gross income derived from any "sub-agreement" (an agreement between the Association and the

Dock User) for the use of a dock ("Dock User Fees"). The Dock User Fees must be calculated, collected and remitted to the State. Therefore, it is necessary for the Association to monitor the activities of the Dock Users which may have an impact on the amount of lease fees paid to the State and to collect from the Dock Users their portion of such fees. These activities may include any revenues received by the Dock Users for the use of the dock, any rental income from the leasing of the Dock Users' Condominium Unit(s) which may be attributable to the use of the docks and any sales revenue from the sale of the Dock User's Condominium Unit which may be attributable to the use of the dock(s). Dock User Fees shall be considered an "assessment" as defined in Section 8 of this Declaration. The Association shall adopt rules and regulations from time to time pertaining to Dock Users and Dock User Fees.

7. **ASSOCIATION.** The operation of the Condominium is by Casa Bonita Royale Condominium Association, Inc., a Florida corporation not for profit, which shall perform its functions pursuant to the following:

7.1 **Delegation of Management.** The Board of Directors may contract for the management and maintenance of the condominium property and authorize a 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 and repair of the common elements with funds made available by the Association for such purposes. Any Management Company shall be engaged by written Contract. The Association and its Directors and officers shall, however, retain at all times the powers and duties provided in the Condominium Act.

7.2 **Membership.** The members of the Association are the Owners of record legal title to the Units, as further provided in the Bylaws.

7.3 **Acts of the Association.** Unless the approval or affirmative vote of the Unit Owners is specifically made necessary by some provision of the Condominium Act or the condominium documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board 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 being a Unit Owner.

7.4 **Powers and Duties.** The powers and duties of the Association include those set forth in the Condominium Act and in 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 has the power to enter into agreements to acquire leaseholds, memberships and other possessory or use interests in

lands or facilities contiguous to the lands of the Condominium, for the use and enjoyment of the Unit Owners.

7.5 Official Records. The Association shall maintain its official records as required by law. The records shall be open to inspection by members or their authorized representatives at all reasonable times. The right to inspect the records includes a right to make or obtain photocopies at the reasonable expense of the member seeking copies.

The Association shall not be required to provide a prospective purchaser or lienholder with information about the condominium or the Association other than information or documents required by law to be made available or disclosed.

Notwithstanding the foregoing, the Association shall be entitled to charge a reasonable fee to the prospective purchaser, lienholder, or member for its time in providing good faith responses to requests for information by or on behalf of a prospective purchaser or lienholder, other than that required by law, provided that such fee does not exceed \$150.00 plus the reasonable cost of photocopying and any attorney's fees incurred by the Association in connection with its response.

7.6 Purchase of Units. The Association has the power to purchase Units in the Condominium and to acquire and hold, lease, mortgage, and convey them, such power to be exercised by the Board of Directors.

7.7 Acquisition of Property. The Association has the power to acquire property, real or personal. The power to acquire personal property shall be exercised by the Board of Directors. Except as provided in 7.6 above, the power to acquire interests in real property may be exercised by the Board of Directors, but only after approval by at least a majority of the voting interests.

7.8 Disposition of Property. Any property owned by the Association, whether real, personal or mixed, may not be mortgaged, sold, or otherwise encumbered or disposed of by the Board of Directors, without the prior authorization of at least a majority of the voting interests present, in person or by proxy.

7.9 Roster. The Association shall maintain a current roster of names and mailing addresses of Unit Owners. A copy of the roster shall be made available to any member upon request.

Additionally, the Association may maintain the electronic mailing addresses designated by members for receiving notice by electronic transmission of those members consenting in writing to receive notice by electronic transmission. The electronic mailing addresses and telephone numbers provided by members to receive notice by electronic transmission shall be removed from Association records and not made available to other members when consent to receive notice by electronic transmission

is revoked in writing and sent to the Association. The Association, however, is not liable for an erroneous disclosure of the electronic mailing address or the number for receiving electronic transmission of notices.

7.10 ***Fees for Use of Common Elements.*** Pursuant to Florida Statute §718.111(4) (2004), as amended from time to time, the Board of Directors shall have the authority to set use fees for private use of common elements or Association Property, as well as the regulations and policies pertaining to such use.

7.11 ***Limitation Upon Liability of Association.*** Notwithstanding the duty to maintain and repair parts of the Condominium Property, the Association is not liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair caused by any latent condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any alterations or improvements done by or on behalf of any Unit Owners, regardless if whether or not the same shall have been approved by the Association pursuant to the provisions hereof.

NOTWITHSTANDING ANYTHING CONTAINED HERE OR IN THE CONDOMINIUM DOCUMENTS OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION, THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER BE 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, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(A) 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 USE 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; AND

(B) 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, LEE COUNTY, AND/OR OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

(C) ANY PROVISIONS OF THE CONDOMINIUM DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO 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 THE ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH UNIT OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS UNIT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE CONDOMINIUM PROPERTY (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS PROVISION 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 IN THIS PROVISION.

8. **ASSESSMENTS AND CHARGES.** The Association has the power to levy and collect assessments and charges 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, including regular assessments for each Unit's share of the common expenses as set forth in the annual budget, and special assessments for unusual, non-recurring or unbudgeted common expenses. With the exception of boat docks and boat wells for which the right to use said slip or space is limited to the twenty-one (21) Units for which they have been assigned, all expenses related to the maintenance, repair and replacement of all other limited common elements shall be a common expense. While the Association shall maintain, repair and replace all assigned boat docks and boat wells, these expenses shall be applied to and be borne by those twenty-one (21) Unit Owners who benefit by having these assigned rights. The Association may also levy special charges against any individual Unit for any amounts other than common expenses which are properly chargeable against such Unit under this Declaration or the Bylaws. Assessments shall be levied and payment enforced as provided in Section 11 of the Bylaws and as follows:

8.1 ***Common Expenses.*** Common expenses include all expenses of the operation, maintenance, repair, replacement and protection 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 any amounts budgeted to fund reserve accounts. The cost of water and sewer service to the Units may be a common expense, unless the water and/or sewer service is separately metered, then it shall be borne by the individual Owners and shall not be considered a common expense as set forth herein. If the Board of Directors enters into a contract for pest control or cable television services in bulk for all Units, the cost of such services shall be a common expense.

8.2 **Share of Common Expenses.** The Owner of each Unit shall be liable for a share of the common expenses of the Association equal to his share of ownership of the common elements and the common surplus.

8.3 **Ownership.** Assessments 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 has the right to withdraw or receive distribution of his share of the common surplus, except as otherwise provided-herein or by law.

8.4 **Who is Liable for Assessments.** The Owner of each Unit, regardless of how title was acquired, is liable for all assessments or other charges or installments thereon coming due while he is the Owner. Multiple Owners are jointly and severally liable. Except as provided in Section 17.3 below, whenever title to a condominium parcel is transferred for any reason, the transferee is jointly and severally liable with the transferor for all monies owed by the transferor, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee.

8.5 **No Waiver or Excuse from Payment.** The liability for assessments may not be avoided or abated by waiver of the use or enjoyment of any common elements, by abandonment of the Unit for which the assessments are made, or by interruption in the availability of the Unit or the common elements for any reason whatsoever. No Unit Owner may be excused from payment of his share of the common expenses unless all Unit Owners are likewise proportionately excused from payment, except as provided below as to certain mortgagees.

8.6 **Application of Payments; Failure to Pay; Interest.** Assessments and installments thereon paid on or before ten (10) days after the due date shall not bear interest, but all sums not paid by the tenth (10th) day shall bear interest at the highest rate allowed by law, until paid. Assessments and installments thereon shall become due, and the Unit Owner shall become liable for the assessments or installments, on the date established in the Bylaws or otherwise set by the Association for payment. The Association may impose a late payment fee, in addition to interest, as allowed by law. All payments on account shall be applied first to interest, then to late payment fees and attorney's fees and costs, and finally to unpaid assessments and charges as required by law. No payment by check is deemed received until the check has cleared.

8.7 **Acceleration.** If any special assessment or monthly installment of regular assessments or other charges as to a Unit becomes more than thirty (30) days past due and a Claim of Lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the Unit's annual assessment and all special assessments for that fiscal year as if the balance had originally been due on the date the Claim of Lien was recorded. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorneys 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 is 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 required by Section 718.116 of the Condominium Act, or may be sent separately.

8.8 **Liens.** The Association has a lien on each condominium parcel securing payment of past due assessments, including interest and reasonable 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. The lien is perfected upon recording a Claim of Lien in the Public Records of Lee County, Florida, stating the description of the condominium parcel, the name of the record Owner, the name and address of the Association, the assessments past due and the due dates. The lien is in effect until barred by law. The Claim of Lien secures all unpaid assessments and charges coming due or incurred prior to a final judgment of foreclosure. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

8.9 **Priority of Lien.** Except as otherwise provided by law, the Association's lien for unpaid assessments shall be subordinate and inferior to the lien of any recorded first mortgage, unless the Association's Claim of Lien was recorded before the mortgage, but is superior to, and takes priority over, any other mortgage or lien regardless of when the mortgage or lien was recorded. Any lease of a Unit is subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed.

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

8.11 **Certificate As To Assessments.** Within fifteen (15) days after request by a Unit Owner, Unit purchaser or mortgagee, the Association shall provide a certificate stating whether all assessments and other monies owed to the Association by the Unit Owner with respect to the condominium parcel have been paid. Any person other than the Owner who relies upon such certificate shall be protected thereby. The Association may charge a reasonable fee for the preparation of the certificate.

8.12 **Collateral Assignment of Rents.** In the event a Unit Owner is in default in payment of assessments for common expenses, the Association shall have the authority to collect rents directly from the Unit Owner's tenant. Such rental payments shall be collected in accordance with the procedures established by the Board of Directors and applied in accordance with this Article 8 of this Declaration. Furthermore, notwithstanding any other remedy available to the Association under this Declaration, the Bylaws or applicable law, the Association shall have the following options when payment of assessments or charges are in default (more than ten days in arrears): The Association

may, without order of the court, direct rental income (by written notice to the tenant with copy to Unit Owner) from Units in default to be paid directly to the Association, as provided under Florida Statutes, Section 718.116, until all outstanding assessments, charges, interest, costs, collection expenses, attorney's fees and receiver's fees, if applicable are satisfied. As an alternative, the Association may apply to a Court of competent jurisdiction, either in connection with a foreclosure suit, a personal suit, or otherwise, to have rental proceeds paid on account of a Unit in default paid directly to the Association, the court registry, or a receiver, as the Court may direct.

8.13 ***Suspension of Use and Voting Rights.*** If a Unit Owner is delinquent for more than 90 days in paying a monetary obligation due to the Association, the Association may suspend the right of a Unit Owner or a Unit's occupant, licensee, or invitee to use common elements, common facilities, or any other Association property until the monetary obligation is paid. The Association may also suspend the voting rights of a member due to nonpayment of any monetary obligation to the Association which is more than 90 days delinquent for so long as the member remains delinquent.

8.14 ***Lien for Charges.*** There is hereby created a common law and contractual lien to secure any service which the Association provides for an individual member and which is not otherwise secured by the statutory lien for Common Expenses created herein. By way of example, but not limitation, a lien for Charges exists to secure repayment to the Association when it must remove or reinstall Unit Owner alterations or items of Unit Owner maintenance responsibility in connection with the Association's discharge of its Common Element maintenance responsibilities, or address emergency situations, such as water extraction from a Unit. The lien for Charges shall be of equal priority to, shall be secured as to interest, late fees and attorney's fees and the like, and shall be foreclosed in the same manner as the Common Expense lien.

9. 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:

9.1 ***Association Maintenance.*** The Association is responsible for the protection, maintenance, repair, replacement and insurance of all common elements and Association property (other than the limited common elements that are required elsewhere herein to be maintained by the Unit Owner). The cost is a common expense of the Condominium. The Association's responsibilities include, without limitation, the following:

- A. Electrical wiring up to a circuit breaker panel in each Unit;
- B. Cable television lines up to and including the wall outlet;
- C. Water pipes, up to the individual Unit cut-off valve;

- D. Sewer lines, up to the point where they enter the individual Unit boundaries;
- E. All exterior building walls, including painting, waterproofing, and exterior caulking;
- F. All of the fire sprinkler systems, if any; and
- G. The entrance door and its exterior surface.

The Association's responsibilities do NOT include interior wall switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within a Unit and serving only that Unit. All incidental damage caused to a Unit or limited common elements by work performed or ordered to be performed by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the property as nearly as practical to its condition before the damage, and the cost shall be a common expense, except the Association shall not be responsible for the damage to any alteration or addition to the common elements made by a Unit Owner or his predecessors in title.

9.2 ***Unit Owner Maintenance.*** Each Unit Owner is responsible, at his or her own expense, for all maintenance, repairs, insurance and replacement of the property in his or her own Unit and for certain limited common elements. The Owner's responsibilities include, without limitation:

- A. The interior surfaces of the primary access door to the Unit and its framing;
- B. All doors within the Unit including locks, hardware and framing;
- C. The electrical, mechanical and plumbing lines, pipes, fixtures, switches, valves, drains, faucets and outlets (including connections) located partially or entirely within the Unit or serving only the Unit;
- D. The circuit breaker panel and all electrical wiring going into the Unit from the panel;
- E. Appliances, water heaters, smoke alarms, dryer vents and vent fans;
- F. All air-conditioning and heating equipment, thermostats, ducts and installations serving the Unit exclusively, no matter where located,;
- G. Carpeting and other floor coverings;
- H. Maintenance, repair, and replacement of removable screens, windows, window glass, window and wall coverings and all related framework and hardware;

- I. Shower pans;
- J. Any Unit Owners who have received and who have been assigned boat docks and/or covered parking are responsible for all expenses relating to maintenance, repair, insurance and replacement for limited common elements consisting of boat dock(s) and covered parking;
- K. The main water supply shut-off valve for the Unit;
- L. Other facilities or fixtures which are located or contained entirely within the Unit and serve only the Unit, including but not by way of limitation, cabinets, counters, built-in cabinetry, and appliances, toilets, tubs and showers;
- M. All interior walls which do not form part of the boundary of the Unit; and
- N. All furniture, furnishings and personal property of a Unit Owner.

9.3 ***Additional Unit Owner Obligations.*** In connection with the maintenance, repair and replacements obligations of the Unit Owner, the Unit Owner shall also have the responsibility to obtain the prior written approval of the Association, through the Board of Directors, before performing any maintenance, repair or replacement that requires any of the following:

- A. Changes or alterations to the physical appearance of the condominium property;
- B. Excavation;
- C. Access to building roofs
- D. Removal or modification of any interior partitions or walls, whether load bearing or not;
- E. Relocation of plumbing or electrical lines or fixtures;
- F. The use of heavy or noisy equipment including generators is prohibited except in emergency situations or after storms or events which result in the loss of electrical power. Notwithstanding, periodic limited testing of generators is permitted but only during daylight hours.
- G. Such other actions as may cause concern for the peace and safety of the condominium and its residents or the aesthetics of the condominium property.

The Association may condition such approval on criteria as the Board of Directors deems reasonable, including but not limited to the following:

- A. Use of licensed and insured contractors;
- B. Right (but not the duty) oversight by the Association or its agent;
- C. The Unit Owner submitting plans as to the scope of the contemplated repair;
- D. Restrictions as to hours of work, including making sure that Lee County Noise Ordinance is complied with;
- E. Restrictions regarding equipment parked or stored on or near the Condominium property during construction;
- F. Restrictions regarding the transport and storage of materials and supplies necessary for the construction to be performed. Specifically, contractors engaged by Owners must arrange for disposal of their trash and debris offsite and must not deposit it in the dumpster situated in the Condominium.

Unit Owners may not engage in "extensive" remodeling work or "heavy" construction activity, except with prior approval of the Board of Directors. "Extensive" remodeling and "heavy" construction shall be as defined by the Board of Directors from time to time, and shall include, but not be limited to, activities involving the following:

- A. Activities involving the use of power equipment, such as jackhammers, drills, saws, and the like, which create substantial noise, as determined by the Board;
- B. Activities resulting in the creation of substantial noise that can be heard outside of the Unit, regardless of whether power equipment is used or not, as determined by the Board;
- C. Activities rendering the Unit uninhabitable during the performance of the work;
- D. Activities requiring the storage of materials or equipment on the premises outside of the Unit;
- E. Activities involving the presence of work crews or significant numbers of workers, as determined by the board;
- F. Activities requiring the use of scaffolding, booms, or other forms of exterior access.

The Unit Owners shall be responsible for any damage to condominium property caused by their contractor.

Nothing shall preclude the Association from acting as the Owner's agent and obtaining the services of contractors to perform Unit Owner maintenance responsibilities, provided the Association and the Owner so agree and provided the Owner is deemed to consent to reimbursement of expenses incurred, secured by such rights as exist for collecting common expenses under these condominium documents.

9.4 *Balconies and Lanais.* With regard to balconies and/or lanais, the Unit Owner who has the right to the exclusive use of said balcony or lanai shall be responsible for the maintenance, care and preservation of the floor coverings, storm shutters and other enclosures, as well as fixed and/or sliding glass doors in portions of the entrance way to said balcony or lanai, if any, and the wiring, electrical outlet(s) and fixture(s) thereon, if any, and the replacement of light bulbs. The Association's painting responsibility shall include all original existing exterior walls which are exposed to the elements, regardless whether the area is screened or not. Any Unit Owner wishing to paint their lanai must receive prior written approval from the Board and must paint their lanai using the same paint color, texture and sheen as that of the remainder of the building's exterior.

The appearance of balcony and/or lanai and like areas, including screens and frames, hardware, storm shutters, and other items and portions of the building or other structures or improvements visible from the exterior of the Unit, shall be subject to the rules and regulations of the Association as promulgated by the Board. There shall be no enclosure of screened balcony or lanai with glass, solid structures, or otherwise without the prior written approval of the Board. The Board may regulate and/or restrict the type of balcony or lanai floor covering which is allowed and the Board may require the removal of any floor coverings if the Board determines the removal is necessary for the preservation of the structural integrity of the building.

9.5 *Alterations by Unit Owners.* No Owner may make or permit the making of any modifications or alterations to his Unit, the common elements, or the limited common elements, or in any manner change the appearance of any portion of the condominium, or make any structural change within the Unit interior without first obtaining the written consent of the Board of Directors, which consent shall be denied if the Board determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the condominium in part or whole. The Board may, in appropriate circumstances, require sealed plans from an Architect or Professional Engineer licensed to practice in Florida as a condition of reviewing any requested modification, alteration or addition to the condominium property. The Board, in reaching its decision, may take into account uniformity of appearance, compatibility with architecture in Casa Bonita Royale, the quality of the proposed alteration, objections of neighboring residents, and such other criteria as the Board may reasonably adopt in reaching its decision. If the Board determines to permit any alteration or addition which is visible from the exterior of the premises, from any vantage, said addition or improvement

must also be approved by the Unit Owners in the manner provided in Section 9.7 of the Condominium Declaration. If any Unit Owner requests approval of an alteration or modification involving the removal or modification of any interior partition or wall, the Association may permit such removal if the removal would not materially affect or interfere with the utility services constituting common elements, if any, located therein or the structural integrity of the building.

9.6 **Additional Unit Owner Responsibility for Alterations and Additions** If a Unit Owner makes any modifications, installations, or additions to the interior or exterior of the Unit, common elements, or limited common elements in accordance with Section 9.7 above, the Unit Owner (and his heirs, successors in title and assigns) shall be financially responsible for the insurance, maintenance, care, and preservation of the modifications, installations or additions and shall execute such documents as the Association may promulgate accepting said financial responsibility, which may be recorded in the Public Records of Lee County, if so desired by the Association, to place record notice that such responsibility passes with title to the Unit. Any modification, alteration, or addition to the condominium property made by a Unit Owner, whether or not duly approved by the Board of Directors, may be required to be removed in connection with the Association's maintenance of the condominium property. In such cases, the Unit Owner who installs the alteration, addition, or improvement (and their successors in title) shall be obligated to reimburse the Association for any costs affiliated with removal and/or re-installation of the item, with said obligation being secured by a right of lien of equal dignity to the common expense lien created by this Declaration, or alternatively, said Owner may be required to remove and reinstall said additions, if so determined by the Board of Directors. Further, the Association, its contractors and agents, shall not be liable for any damage to the item arising out of its removal and/or reinstallation, unless occasioned by the gross negligence or willful misconduct of the Association or its contractor or agent.

9.7 **Alterations by Association**. There shall be no material alterations or substantial additions to the common elements or association property, except as authorized by the Board of Directors. Provided, however, that if any such alteration or addition requires the expenditure of more than five percent of the Association's budget in a fiscal year, including reserves, the Board shall obtain approval of two-thirds (2/3rds) of those Members voting, in person or by proxy, at a duly called meeting of the membership. Necessary maintenance of the common elements, or association property regardless of the level of expenditure, is the responsibility of the Board of Directors.

9.8 **Enforcement of Maintenance**. If, after reasonable notice, the Owner of a Unit fails to maintain the Unit or other portions of the condominium property as required above, the Association shall have, without waiver of other remedies, the right to enter the Owner's Unit and perform or cause performance of the necessary work, and/or institute legal proceedings at law or in equity to enforce compliance, and/or to take any and all other lawful actions to remedy such violation, in which event the Unit Owner shall be charged for the costs of such activities (including attorney's fees incurred by the Association) by the Association which shall be secured by a lien for charges.

9.9 Negligence. Damage Caused by Condition of Unit. Each Unit Owner shall be liable to the Association and/or other Unit Owners for the expenses of any maintenance, repair or replacement of the condominium property, made necessary by his act or negligence, or by that of any member of his family or his or their guests, employees, agents, or lessees. If any condition, defect or malfunction existing within a Unit, if caused by the Owner's negligence, shall cause damage to the common elements or to other Units, the Owner of the offending Unit shall be liable to the person or entity responsible for repairing the damaged areas for all costs of repair or replacement not paid by insurance (including the deductible). If one or more of the Units involved is not occupied at the time the damage is discovered, the Association may enter the Unit(s) without prior notice to the Owner(s) and take reasonable action to mitigate damage or prevent its spread, at the Unit Owner's expense. The Association may, but is not obligated to, repair the damage without the prior consent of the Owner, in the event of an emergency, and the Owner shall be responsible for reimbursement of the Association, with the cost being secured by a lien for charges, if necessary. Any Unit Owner who plans to be absent from the Unit for an extended period of time defined as more than thirty (30) days must prepare the Unit for departure including insuring that the inside water lines are shut off and the Unit is secure from leakage. The Board of Directors may, by rule, also set standards for individual Unit Owner replacement responsibilities, as the Board determines reasonable. Without limitation, the Board may require the replacement of water valve types, and set standards for the manner and frequency of repair or replacement of washer hoses, ice maker lines, hot water tanks, toilets, and similar items which are prone to causing water leak problems in condominiums or for water conservation purposes.

9.10 Association Access to Units. Association has the irrevocable right of access to each Unit during reasonable hours when necessary for the maintenance, repair, or replacement of any Common Elements, or for making emergency repairs which are necessary to prevent damage to the Common Elements or to another Unit or Units. In addition, the Association has easements over the Condominium Property, and a right of access to each Unit, as necessary for the Association to fulfill its maintenance, repair and replacement responsibilities under this Declaration, including maintenance of any portion of the Unit for which the Association is responsible herein. The Association shall further have the right to enter Units for the purpose of inspecting any portion of the Unit for the Association is responsible for maintaining, or for which the Unit Owner is required by this Declaration to perform regular maintenance. Such easement and right may be exercised by the Association through its officers, directors, committee members, employees, contractors, or agents in their capabilities as such and by all emergency personnel in the performance of their duties as long as in compliance with Section 718.111(5), Florida Statutes. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Unit Owner.

9.11 Pest Control. The Association may supply pest control services for the inside of each Unit, with the cost thereof being part of the common expenses. An Owner has the option to decline such service unless the Association determines that such service is necessary for the protection of the balance of the Condominium, in which event the Owner thereof must either permit the Association's

pest control company to enter his Unit or must employ a licensed pest control company to enter his Unit on a regular basis to perform pest control services and furnish written evidence thereof to the Association. Because the cost of pest control services provided by the Association is a common expense, the election of an Owner not to use the service shall not reduce the Owner's assessments.

9.12 ***Hurricane Shutters.*** The Board of Directors shall adopt and approve a model, style and color of hurricane shutter as a standard hurricane shutter for use in the Condominium. No hurricane shutter except of a standard model, color and style adopted and approved by the Board of Directors shall be used in or upon the Condominium.

9.13 ***Mitigation of Dampness and Humidity.*** Each Unit Owner shall be required to maintain appropriate climate control, keep his or her Unit clean, dry, well-ventilated and free of contamination and shall take necessary measures to retard and prevent mold, mildew, toxins and fungi from accumulating in the Unit. Each Unit Owner shall be required to clean and dust the Unit on a regular basis and to remove visible moisture accumulation on windows, window sills, walls, floors, ceilings and other surfaces as soon as reasonably possible and must not block or cover any heating, ventilation or air-conditioning ducts. Leaks, leaving exterior doors or windows open, wet flooring and moisture will contribute to the growth of mold, mildew, fungus or spores. Further, given the climate and humid conditions in the area where the Condominium is located, molds, mildew, toxins and fungi may exit and/or develop within the Unit and/or Condominium Property. Each Unit Owner is hereby advised that certain molds, mildew, toxins and/or fungi may be, or if allowed to remain for a sufficient period may become toxic and potentially pose a health risk. Each Unit Owner whether or not occupying the Unit, shall continuously run the air conditioning to maintain the Unit temperature at a maximum temperature of seventy-eight degrees (78°), to minimize humidity in the Unit. References in this section to climate control and air conditioning shall only be applicable to those portions of the Unit that are air conditioned. Unit Owners are required to report immediately in writing to the Board (i) any evidence of water leak or water infiltration or excessive moisture in the Unit or Common Elements; (ii) any evidence of mold that cannot be removed with a common household cleaner; (iii) any failure or malfunction in heating, ventilation or air conditioning; and (iv) any inoperable doors or windows and each Unit Owner shall be responsible for damage to the Unit, the Common Elements and personal property as well as any injury to the Unit Owner and/or occupants of the Unit resulting from the Unit Owner's failure to comply with these terms. Each Unit Owner is fully responsible and liable for the entire amount of all cleaning expenses and remediation costs incurred by the Association to remove mold from the Unit and Common Elements if the Unit Owner fails to remediate same and each Unit Owner shall be responsible for the repair and remediation of all damages to the Unit and Common Elements caused by mold. By acquiring title to a Unit, each Unit Owner shall be deemed to have assumed the risks associated with molds, mildew, toxins and/or fungi and to have released Association from any and all liability resulting from same, including, without limitation, any liability for incidental or consequential damages, which may result from, without limitation, the inability to possess the Unit, inconvenience, moving costs, hotel costs, storage costs, loss of time, lost wages, lost opportunities and/or personal injury and death to

or suffered by the Unit Owner, his/her family members and/or guests, tenants, invitees and/or pets of all of the aforementioned persons, as a result of mold, mildew, fungus or spores. Additionally, each Unit Owner, by acceptance of a deed, or otherwise acquiring title to a Unit, shall be deemed to have agreed that Association shall not be responsible, and Association hereby disclaims any responsibility for any illness, personal injury, death or allergic reactions which may be experienced by the Unit Owner, his/her family members and/or guests, tenants, invitees and/or pets of all of the aforementioned persons, as result of mold, mildew, fungus or spores. Association does not make any representations or warranties regarding the existence or development of molds or mycotoxins and each Unit Owner shall be deemed to waive and expressly release any such warranty and claim for loss or damages resulting from the existence and/or development of same. Further, in the event that the Association reasonably believes that these provisions are not being complied with, then, the Association shall have the right, but not the obligation, to enter the Unit (without requiring the consent of the Unit Owner or any other party) to turn on the air conditioning in an effort to cause the temperature of the Unit to be maintained as hereby required (with all utility consumption costs to be paid and assumed by the Unit Owner).

9.14 ***Flooring.*** Any Unit which has any hard-surface floor covering (e.g. marble, slate, ceramic tile, hardwood) must have a sound absorbent underlayment of such kind and quality as to substantially reduce the transmission of noise to adjoining Units. If the installation of a hard-surface floor is made without the installation of a sound absorbent underlayment, then the Board may, in addition to exercising all the other remedies provided in this Declaration, require the Unit Owner to cover all such hard-surface flooring with carpeting and padding or require the removal of such hard-surface flooring at the expense of the offending Unit Owner.

10. ***USE RESTRICTIONS.*** The use of the Units and the common elements shall be in accordance with the following provisions, as long as the Condominium exists:

10.1 ***Units.*** Each Unit shall at any time be occupied by only one family, its bonafide healthcare givers and guests, as a residence and for no other purpose. No business, commercial activity or profession may be conducted from any Unit, nor may the name of the condominium or the address of any be publicly advertised as the location of any business. This restriction shall further 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 or written correspondence in and from his Unit. Such uses are expressly declared customarily incident to residential use. This Section 10.1 is, however, intended to prohibit commercial or business activity by a Unit Owner which would unreasonably disrupt the residential ambiance of the building, or make it obvious that a business is being conducted, such as by regular or frequent traffic in and out of the Condominium by persons making deliveries or pick-ups, by employees or other business associates, or by customers and clients. In no event may more than six (6) persons occupy a Unit for more than an occasional period. In no event may more than four (4) persons reside in a Unit for more than an occasional (one "occupancy" during a three

month period) period. When used in this section "occupy" shall mean occupancy for no more than seven (7) nights and "reside" shall mean occupancy for more than seven (7) nights. In considering such requests, the Board may consider factors set forth in Article 11 hereof, and may charge a reasonable fee for review of occupancy requests. Units may not be used for commercial or business purposes.

10.2 ***Pets.*** Unit Owners are permitted to keep no more than one (1) small pet, of a normal domesticated household type such as up to one (1) dog or one (1) cat. No pet may exceed eighteen (18) inches at shoulder height. The ability to keep pets is a privilege, not a right, and the Board of Directors may order and enforce the removal of any pet which becomes a reasonable source of annoyance to other residents. The Owner is responsible for cleaning up after his pet. No pet Owner is permitted to leave excretions of their pets on the common ground areas. No reptiles, rodents, poultry, amphibians, swine or livestock may be kept in the Condominium, but tropical fish are permitted. No aggressive or loud breeds or species of pets are allowed, including but not limited to Pit Bulls, Rottweilers, Dobermans, and German Shepards. Dogs and cats must be leashed or carried at all times while outside of the Unit and under supervision of a responsible adult. No pet or animal shall be "tied out" or left on the exterior of the Unit or in the Common Elements, or left unattended on a balcony, porch, lanai or patio. Tenants and guests are not permitted to keep pets. No pets of the Unit Owner may be kept in the Unit unless the Unit Owner is permanently and physically residing in the Unit, unless the Unit Owner has made proper arrangements for the care of said pet(s). No animals may be kept, harbored or otherwise brought onto condominium property for any commercial purpose, including pet watching, pet sitting, grooming or breeding. No pet shall be allowed to create a nuisance or unreasonable disturbance or to damage any common property or the property of any other resident.

10.3 ***Nuisances.*** No Owner shall use his Unit, or permit it to be used, in any manner that is unreasonably disturbing, detrimental or a nuisance to the occupants 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. Unless for normal household use or for normal landscaping requirements, the storage of flammable, combustible, explosive fluids, gases, chemicals or substances, other than for bonafide life support systems, is not permitted anywhere on condominium property. The use of each Unit shall be consistent with existing laws, the governing documents and the condominium documents, and occupants shall at all times conduct themselves in a peaceful and orderly manner.

10.4 ***Signs.*** No person may post or display any signs, banners, and the like, anywhere outside the Unit on the condominium property, including "For Sale", "For Rent", and other similar signs. If any sign is erected in violation of this provision, the Association shall have the right to remove it.

10.5 *Motor Vehicles; Parking.* No motor vehicle shall be parked anywhere on the condominium property except in the Unit's assigned parking space assigned to the Unit. No trucks, or commercial vehicles which are primarily used for commercial purposes, other than service vehicles temporarily present on business, may be parked on the condominium property. Motorcycles, trailers, boat trailers, semitrailers, house trailers, campers, travel trailers, mobile homes, motor homes, recreational vehicles, and the like, and any vehicles not in operable condition or validly licensed, may not be kept on the condominium property. That notwithstanding, motor homes and recreational vehicles meeting the definition of 10.5(G) may be parked for up to three (3) hours to load and unload the motor home. All vehicles must be properly licensed and registered. Guest parking spots are intended for bonafide guests only. The Board is empowered to adopt and enforce additional rules pertaining to parking.

(A) ***“Commercial Vehicles”*** means all vehicles of every kind whatsoever, which from viewing the exterior of the commercial markings, signs, lettering, displays, equipment, inventory, apparatus or otherwise indicates a commercial use.

(B) ***“Trucks”*** means any motor vehicle which is designed or used principally for the carriage of goods and includes a motor vehicle to which has been added a cabinet box, a bed, a platform, a rack, or other equipment for the purpose of carrying goods other than the personal effects of the passengers, whether or not said cabinet box, bed, platform or rack has been enclosed by a cap, “topper” or other enclosure. This definition shall specifically allow parking or keeping of non-commercial “pickup trucks” and shall further allow passenger “custom” and like non-commercial minivans (provided same are not “commercial” vehicles, as defined above) currently marketed under the following manufacturers name plates: Honda Odyssey, Chrysler Town & Country, Toyota Sienna, and all other vehicles of similar design and custom passenger vans. The term truck shall not include “Jeeps” or other SUVs if same do not have a cabinet box, bed, platform, box or rack, as described above and if same are not “non-passenger” vehicles, as described below; such as Ford Explorers, Chevrolet Suburbans, Jeep Cherokees, Honda Pilots and the like.

(C) ***“Campers”*** means all vehicles, vehicle attachments, vehicle toppers, trailers or other enclosures or devices of any kind whatsoever, manufactured, designed, marketed or used for the purpose of camping, recreation or temporary housing of people or their personal property.

(D) ***“Trailers”*** means any vehicles or devices of any kind whatsoever which are manufactured, designed, marketed or used to be coupled to or drawn by a motor vehicle.

(E) ***“Mobile Homes”*** means any structure or device of any kind whatsoever, which is not self-propelled but which is transportable as a whole or in sections, which is manufactured, designed, marketed or used as a permanent dwelling.

(F) **“Motorcycle”** means any motor vehicle on two or three wheels propelled by an engine of ½ horsepower or more and shall include “ATV’s”, motorscooters, motorcycles, and mopeds powered by engines of ½ horsepower or more.

(G) **“Motor Homes”** or **“Recreational Vehicle”** means any vehicles which are self-propelled, built on a motor vehicle chassis, and which are primarily manufactured, designed, marketed or used to provide temporary living quarters for camping, recreational or travel use. Vehicles satisfying the foregoing criteria and which contain shower facilities, restroom facilities, and full cooking facilities shall be considered motor homes.

(H) No vehicle which is not currently licensed or cannot operate on its own power shall remain on the premises for more than twenty-four (24) hours. As used in this section, the term licensed shall mean that the vehicle displays, at all times, a license plate or license tag to which is affixed a sticker indicating that the vehicle is currently registered with the State of Florida or other state as the case may be. The Board, or any of the Board’s agents, who has reasonable cause to believe that a vehicle is unable to operate on its own power shall affix a sticker thereto notifying the owner of the vehicle that it is considered to be in violation of the condominium rules and regulations. The owner of such vehicle shall have twenty-four (24) hours from the date and time affixed to the sticker to respond to the Board or its agent and demonstrate that the vehicle can operate on its own power. If the owner cannot so demonstrate or if the owner does not contact the Board, the vehicle may be towed at the owner’s expense.

(I) A speed limit of five (5) miles per hour applies through the condominium property. Unnecessary vehicle noises are to be avoided within the grounds.

(J) Vehicle maintenance is not permitted on the condominium property except for emergency repairs to vehicles, such as changing a flat tire and/or jumping a car battery which is permissible. Cleaning the interior of the vehicle and waxing the exterior is permissible. Exterior vehicle washing is permitted in an area designated for car washing if one is available.

(K) In order to ensure the accessibility to the condominium property by fire, ambulance and other emergency personnel, the Board of Directors shall have the authority to establish parking policies. Said restrictions shall become enforceable upon providing each Owner with notice thereof either through written notice to the Owners or the posting of signs.

(L) Any vehicle parked or otherwise in violation of this Section 10.5 is subject to towing. The Board shall notify the owner of the vehicle in writing that the vehicle is in violation of the condominium rules and regulations. The owner of such vehicle shall have five (5)

business days from the date of the letter to correct the violation and notify the Board of the same. If the owner fails to timely correct the problem and respond to the board, the vehicle will be towed at the owner's expense.

10.6 ***Outdoor Cooking and Barbequing.*** No individual barbeque grills or cooking apparatus shall be permitted anywhere on the condominium property, except in areas that may be designated and permitted by the Board.

10.7 ***Flags.*** Any Unit Owner may display one (1) portable, removable, non-offensive and non-controversial flag, not larger than 4 ½ feet by 6 feet. Location of flag holder is subject to Board approval. No flags or flag holders shall be installed on or around mailbox posts.

10.8. ***Guest Occupancy.*** A "Guest" is defined as a person who enters upon the condominium property at the invitation of a Unit Owner, (or their respective families) for the purpose of visiting the Unit Owner (or his respective family), or utilizing the Condominium Property. Guests are not permitted to bring a pet of any kind to the Condominium. Use or visitation without consideration (payment) distinguishes a guest usage from a tenancy. There are various types of Guest uses, which are regulated as follows:

(A) **Non-Overnight Visitation by Guests When the Unit Owner or Tenant is in Residence.** There is no restriction against this type of Guest usage, provided that same does not create a nuisance or annoyance to other condominium residents, nor prevent their peaceful enjoyment of the premises. The Association may restrict and prohibit Guest visitation by persons who are convicted felons, including those who are registered sex offenders and persons who have been convicted of narcotic offenses. Non-overnight Guests need not be registered with the Association. Non-overnight Guests shall be entitled to use the Condominium facilities but only when accompanied by the Unit Owner or Tenant (or an adult resident member of the Unit Owner's or Tenant's family). The Board may establish additional restrictions on non-overnight Guest usage of Condominium facilities, such as maximum numbers of Guests who may use common facilities, maximum numbers of common facility usages per Guest, and the like.

(B) **Overnight Guests When the Unit Owner or Tenant is in Residence.** Unit Owners and Tenants (and their respective family) may have related or unrelated overnight Guests, so long as the Unit Owner or Tenant is in simultaneous residence. There is no requirement for registration of overnight Guests with the Board. The Association may restrict or prohibit Guest visitation by convicted felons, including but not limited to registered sex offenders and persons who have been convicted of narcotic offenses. Under no circumstances may more than six (6) persons (including the Unit Owner or Tenant, and his family) sleep overnight in any leased Unit.

(C) Non-Overnight Guests in the Absence of the Unit Owner or Tenant. Unit Owners and Tenants are not permitted to have non-overnight Guests when the Unit Owner or Tenant is absent from the Condominium. Unit Owners and Tenants may have their Units inspected by caretakers, family members, friends, etc. However, such individuals shall not be permitted to use Condominium facilities, such as recreational facilities.

(D) Overnight Guests in the Absence of the Unit Owner or Tenant. Unit Owners are permitted to have overnight Guests in the absence of the Unit Owner subject to the following conditions, and such other rules and regulations as may be deemed necessary by the Board to effectuate the residential, non-transient nature of this Condominium. Tenants are not permitted to have overnight Guests (related or unrelated) in the absence of the Tenant's simultaneous residence.

(1) Non-Related Overnight Guests in the absence of the Unit Owner will be limited to two (2) occupancies per calendar year. The limitation of Unit density in Section 10.8(B) applies. Ten (10) days prior notice to the Association and registration with the Association is required.

(2) Related Overnight Guests may occupy a Unit in the absence of the Unit Owner. For the purpose of this clause, "related" means all persons who are staying in the Unit on an overnight basis, in the absence of the Owner, are related to the Unit Owner or Primary Occupant (by blood, marriage, domestic partnership or adoption) to the following degree: parent, grandparent, child, grandchild, or sibling. The limitation on Unit density in Section 10.8(B) applies. Ten (10) days prior notice to the Association and registration with the Association is required.

(E) Additional Board Authority. The Board may promulgate such rules, policies, and procedures as are necessary to implement this Article. In the event that Unit Owners are suspected of circumventing rental restrictions by receiving consideration for occupancies which are held out as Guest occupancies, the Association may require proposed Guest occupants to submit proof of familial/relationship, an affidavit as to absence of payment for the right to occupy the premises, and the like.

11. SALES OR LEASING OF UNITS. All sales agreements or leases of Units or rentals of Units must be in writing. A Unit Owner may sell, lease or rent only his entire Unit, and then only in accordance with this Section. The privilege to rent or lease may be revoked by the Board of Directors if it is abused by the Unit Owner, if the Owner fails or refuses to follow the required procedures.

11.1 Procedures.

(A) Notice. An Owner intending to sell or rent his Unit must give to the Board of Directors (or its designee) written notice of such intention at least fifteen (15) days prior to the starting

date of the proposed transfer together with the name and address of the proposed transferee, and other information about the transferee or the sale that the Board may reasonably require.

(B) Failure to Give Notice. Any sale or lease entered into without notice in violation of the above provisions shall, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the transferee by summary proceedings without securing consent to such eviction from the Unit Owner.

11.2 **Term of Lease and Frequency of Leasing**. The minimum lease or rental term is one (1) month or thirty (30) days. The Board is empowered to make an exception to the minimum lease or rental term, but only in the case of a hardship and only where written permission is requested and granted prior to any said occupancy. All leases shall be limited to no more than two (2) occupants per bedroom. A permanent occupant shall include any person who resides in a Unit on an overnight basis for more than seven (7) days during any calendar year. No subleasing or assignment of lease or rental rights by the lessee is allowed.

11.3 **Occupancy During Lease Term**. No one but the lessee or tenant and his family within the first degree of relationship by blood, adoption or marriage may occupy the Unit. Neither tenants nor their guests, if any, may keep or have a pet.

11.4 **Use of Common Elements and Common Areas**. To prevent overtaxing the facilities, a Unit Owner whose Unit is leased or rented may not use the common elements, including the limited common elements assigned to a leased Unit, during the lease term.

11.5 **Regulation by Association**.

(A) 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, tenant, or guest to the same extent as against the Owner. The Association may require lessees or tenants to post a security deposit as provided by law to protect against damage to the common elements. Said security deposit shall be the greater of \$750.00 or one month's rent. A covenant on the part of each occupant to abide by the rules and regulations of the Association and the provisions of the condominium documents, designating the Association as the Owner's agent with the authority to terminate any lease agreement and evict the tenants in the event of breach of such covenant, shall be deemed to be included in every lease or rental agreement, whether oral or written, and whether specifically expressed in such agreement or not.

(B) The Board of Directors shall have the authority to approve all sales and leases which authority may be delegated to a committee of Unit Owners. The Board shall have the authority to promulgate or use a uniform lease or rental application and require such other

information from the proposed buyers or transferees as is appropriate under the circumstances. The Board shall have the right to delegate the screening of proposed tenants to a committee, or a commercial tenant screening concern. The Board may conduct or cause to be conducted background checks and credit checks on all proposed occupants. The Association may charge a fee for consideration of lease applications which shall not exceed the maximum fee prescribed by law.

(C) All leases or rentals shall be on a uniform lease form if so promulgated by the Association. Uniform leases and all others will provide or shall be deemed to provide that the tenants have read and agreed to be bound by the various restrictions contained in the Condominium Declaration, Articles of Incorporation, Bylaws of the Association, and Rules and Regulations (hereinafter "documentary regulations"). The uniform lease and other leases shall further provide or be deemed to provide that any violation of the applicable documentary regulations shall constitute a material breach of the lease and subject the tenant to eviction. If a tenant fails to abide by the applicable documentary regulations, the Unit Owners shall be responsible for the conduct of the tenant. The Unit Owner shall have the duty to bring his tenants' conduct into compliance with the documentary regulations by whatever action is necessary, including without limitation, the institution of eviction proceedings. If the Unit Owner fails to bring the conduct of the tenant into compliance with the documentary regulations, the Association shall have the authority to act as agent of the Owner to undertake whatever action is necessary to abate the tenants' noncompliance with the documentary regulations, including without limitations, the right to institute an action for eviction against the tenant in the name of the Association. The Association shall have the right to recover any costs or fees, including attorney's fees incurred in connection with such actions from the Unit Owner in the same manner as common expense charges.

(D) Upon receipt of all information and fees required by Association, the Association shall have the duty to approve or disapprove all proposed transfers within fifteen (15) days of receipt of such information for approval. All requests for approval not acted upon within fifteen (15) days shall be deemed approved. If the Association disapproves a proposed transfer the Unit Owner shall receive a short statement indicating the reason for the disapproval, and the transfer shall not be made. The Association shall have no duty to provide an alternate buyer nor shall it assume any responsibility for the denial of a sale application if any denial is based upon any of the following reasons:

- (1) The person seeking approval (which shall include all proposed occupants) has been convicted of a felony involving violence to persons or property, or a felony demonstrating dishonesty or moral turpitude.
- (2) The application for approval on its face, or the conduct of the applicant, indicates that the person seeking approval intends to conduct himself in a manner inconsistent with the

covenants and restrictions applicable to the condominium. By way of example, but not limitation, an Owner allowing a tenant or transferee to take possession of the premises prior to approval by the Association as provided for herein shall constitute a presumption that the applicant's conduct is inconsistent with applicable restrictions.

(3) The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in other housing facilities and other social organizations or associations, or by his conduct in this condominium as a Unit Owner or occupant of a Unit.

(4) The person seeking approval has failed to provide the information, fees, or appearances required to process the application in a timely manner, or has a record of financial irresponsibility, including but not limited to prior bankruptcies, foreclosures or bad debts.

(5) All assessments, fines and other charges against the Unit have not been paid in full.

(6) The proposed occupant or transferee makes any material misrepresentation during the application process, which shall justify retroactive disapproval of the application upon discovery of the misrepresentation.

12. ***INSURANCE.*** The insurance which shall be carried upon the Condominium Property, including the Units, Common Elements, and Association Property shall be as follows:

12.1 ***Authority to Purchase Insurance.*** All insurance policies shall be purchased by the Association for the benefit of the Association and Unit Owners and their mortgagees as their respective interests may appear.

12.2 ***Hazard Insurance.***

12.2.1 ***Casualty.*** Except as otherwise provided herein, the Association shall obtain and maintain fire, wind, general casualty, flood and extended coverage insurance with a responsible insurance company upon all of the Insurable Improvements of the entire Condominium, including Association Property, the Common Elements, the Units, and the personal property of the Association, for the full replacement or insurable value thereof, including coverage for changes in building codes, if reasonably available and determined commercially practicable by the Board, and less a commercially reasonable deductible as determined by the Board, provided the Board may exclude landscaping and exterior improvements not customarily insured by condominium associations in the locality, and foundation and excavation costs, in its discretion. The Association shall insure air conditioning and heating equipment if required by the Act. The Association shall determine the full insurable value of the Insurable Improvements through independent appraisal, at

least every 36 months, so long as required by the Act. The Board shall establish the deductible annually, at a duly noticed meeting of the Board, and shall give notice of such meeting, and determine the deductible, as required by the Act, so long as required by the Act. Notwithstanding the foregoing requirement, the Association, through its Board of Directors, will have fulfilled its duty to obtain insurance coverage if it obtains and maintains such insurance coverage as may be reasonably available from time to time given market and economic conditions, provided such coverage shall always meet the minimum level of adequate coverage required by Section 718.111(11) of the Act. The original policy of insurance shall be held by the Association, and mortgagees shall be furnished, upon request, mortgage endorsements covering their respective interests. The word "Building" or "Insurable Improvement" in every hazard policy issued to protect a Condominium Building does not include: personal property in the Unit or Limited Common Elements; Unit floor, wall, or ceiling coverings; Unit or balcony electrical fixtures; appliances; water heaters; water filters; built-in cabinets or countertops; window treatments, including curtains, drapes, blinds, hardware and similar window treatment components; and replacements of any of the foregoing, which are located within the boundaries of a Unit and serve only one Unit. The Unit Owners shall also be responsible to insure all alterations, modifications or additions made to the Unit, Limited Common Elements, or Common Elements by said Unit Owner, or his predecessor in interest or title.

12.2.2 ***Liability Insurance.*** The Association shall obtain and maintain public liability insurance covering all of the Common Elements and Association Property and insuring the Association and the Unit Owners as their interest may appear in such amount as the Board of Directors may deem appropriate. The Board of Directors shall have authority to compromise and settle all claims against the Association or upon insurance policies held by the Association. The Unit Owners shall have no personal liability upon such claims, except as may be otherwise provided by law, and nothing herein contained shall in any way be construed as imposing upon the Association a duty to assess Unit Owners for the purpose of raising sufficient funds to discharge any liability in excess of insurance coverage.

12.2.3 ***Worker's Compensation.*** Such worker's compensation coverage as may be required by law, or deemed advisable by the Board.

12.2.4 ***Other Insurance.*** Such other insurance as the Board of Directors may from time to time deem to be necessary, including but not limited to Errors and Omissions Officers and Directors Liability insurance coverage and insurance for the benefit of its employees.

12.3 ***Deductible and Other Insurance Features.*** The Board of Directors shall establish the amount of the deductible under the insurance policies, and other features, as it deems desirable and financially expedient, in the exercise of its business judgment, and in the method provided by the Act. The deductible shall be consistent with industry standards and prevailing practice for

communities of similar size and age, and having similar construction and facilities in the locale where the Condominium Property is situated.

12.4 ***Premiums.*** Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense, or if applicable, a Limited Common Expense.

12.5 ***Insurance Shares or Proceeds.*** Insurance proceeds of policies purchased by the Association covering property losses shall be paid to the Association, and all policies and endorsements thereon shall be deposited with the Association. The duty of the Association shall be to receive such proceeds as are paid and to hold and disburse the same for the purposes stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares:

12.5.1 ***Common Elements; Proceeds on Account of Damage to Common Elements.*** An undivided share for each Unit Owner, such share being the same as the undivided share in the Common Expenses appurtenant to the Unit.

12.5.2 ***Unit; Proceeds on Account of Damage to Units Shall be Held in the Following Undivided Shares.***

12.5.2.1 ***Surplus.*** It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial Owners of the fund in the manner elsewhere stated.

12.5.2.2 ***When the Condominium Building is to be Restored.*** For the Owners of damaged Units in proportion to the costs of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Association.

12.5.2.3 ***When the Condominium Building is Not to be Restored.*** An undivided share for each Unit Owner, such share being the same as the undivided share in the Common Expenses appurtenant to the Unit.

12.5.2.4 ***Common Elements and Units.*** When both Common Elements and those portions of the Unit insured by the Association are damaged by a common occurrence, the proceeds of insurance shall be allocated between damage to Common Elements, Limited Common Elements, and Units as the Board of Directors shall determine. It shall be presumed that when there are insurance proceeds received on account of a common casualty, but insufficient proceeds for casualty repair (including but not limited to shortfalls occasioned by the existence of a deductible), that such shortfalls shall first be applied to Common Elements damage, and then to damage to Units and Limited Common Elements, it being the intent of this provision that when there is a common

casualty loss causing significant damage to the premises, the shortfalls occasioned by deductibles shall be first apportioned to all Unit Owners in proportion to their share of the Common Elements and not applied first to Unit damage.

12.5.3 ***Mortgages.*** In the event a mortgage endorsement has been issued as to a Unit, the share of that Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interest may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds.

12.6 ***Distribution of Proceeds.*** Proceeds of insurance policies received by the Association shall be distributed in the following manner:

12.6.1 ***Reconstruction or Repair.*** If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the Unit Owners, or, at the option of the Board, may be deposited in the Association's reserve fund.

12.6.2 ***Failure to Reconstruct or Repair.*** If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed in accordance with the Plan of Termination approved pursuant to Article 15.

12.7 ***Association as Agent.*** The Association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon any Unit and for each Owner of any other interest in the Condominium Property or any property in which the Association owns an interest, to adjust all claims arising under insurance policies by the Association, and to execute and deliver releases upon the payment of such claim.

13. RECONSTRUCTION AFTER CASUALTY. If any part of the Condominium Property shall be damaged by casualty, whether and not it shall be reconstructed or repaired shall be determined in the following manner:

13.1 ***Common Elements.*** If the damaged improvement is any of the Common Elements, the damaged Common Element shall be reconstructed or repaired, unless the Condominium is to be terminated as provided elsewhere herein.

13.2 ***The Building.***

13.2.1 **Lesser Damage.** If the damage renders less than 50% of the Units in the Condominium uninhabitable, as determined by the Board of Directors or governmental agencies of jurisdiction, the damaged property shall be reconstructed or repaired.

13.2.2 **Major Damage.** If the damage renders more than 50% of the Units in the Condominium uninhabitable, as determined by the Board of Directors or governmental agencies of jurisdiction, the damaged property will be reconstructed or repaired, unless 75% of the entire voting interests in the Condominium agree in writing that such reconstruction or repair shall not take place. The decision whether or not to reconstruct or repair shall be made within one hundred eighty (180) days after the casualty, provided however that the Board of Directors shall have the authority to extend this period for decision making, not to exceed two (2) years, to deal with exigencies in communication with Unit Owners caused by natural disasters or other significant casualties, or to deal with delays in obtaining information regarding reconstruction costs or insurance proceeds available for reconstruction.

13.2.3 **Plans and Specifications.** Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Building, as set forth in the plans and specifications for the Building, or if not, then according to plans and specifications approved by the Board of Directors, regardless of whether it is a material alteration or substantial addition as described in Article 9.7 and no vote of the Unit Owners shall be required.

13.2.4 **Definition of "Uninhabitable".** For purposes of this Declaration, "uninhabitable" shall mean that the Board of Directors has concluded that the Condominium Property which the Association is required to insure cannot be restored to the condition (or a better condition) in which it existed prior to the casualty through available insurance proceeds, plus a special assessment against each Unit Owner not to exceed 10% of the average fair market value of the Units, as determined by the Board. This calculation shall not include costs affiliated with those items the Unit Owner is obligated to repair or replace, at the Unit Owner's expense. A governmental agency's declaration or order that the Condominium Property may not be occupied for a defined period of time due to safety concerns shall not conclusively establish that Units are uninhabitable, provided that the Units can be made safe for occupancy pursuant to the standards set forth above. In the event of a dispute as to whether or not Units are "habitable", a resolution enacted by the Board shall be binding on all parties, unless wholly arbitrary or contrary to law.

13.3 **Responsibility.** All reconstruction work after a casualty for damaged items that the Association insured shall be undertaken by the Association, except that a Unit Owner may undertake reconstruction work on portions of the Unit with the prior written consent of the Board of Directors. However, such work, and the disbursement of insurance proceeds, may be conditioned upon the approval of the repair methods, the qualifications of the proposed contractor, the contract that is used for that purpose, and reasonable verification of appropriate steps to ensure that the work is done and that the contractor is paid for the performance of said work. Unit Owners shall be responsible for

reconstructing those items that the Unit Owners are required to insure. All required governmental permits and approvals must be obtained prior to commencing reconstruction. Assessments for the cost of the work shall be set forth in Article 13.5 below. If an Owner fails to repair and reconstruct those items that the Unit Owner is responsible for under this Declaration, the Association shall have, without waiver of other remedies, the right to proceed in accordance with Article 13.7, in which event the Unit Owner shall be charged for the costs of such activities (including attorney's fees incurred by the Association) by the Association which shall be secured by such rights as exist for collecting Common Expenses under these Condominium Documents, i.e., a lien for charges.

13.4 ***Estimate of Costs.*** After a determination is made to rebuild or repair damage to property for which the Association or Unit Owner has the responsibility of reconstruction and repair, the Association or Unit Owner shall obtain promptly reliable and detailed estimates of the cost to rebuild or repair.

13.5 ***Assessments.*** If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association (including shortfalls or no insurance proceeds occasioned by a deductible), or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, Assessments shall be made as follows. If the damage includes those parts of a Unit or Limited Common Element, or additions or upgrades, for which the responsibility of maintenance and repair is that of the Unit Owner, the Unit Owner shall be responsible for the expenses relating to the reconstruction and repair after casualty of said portion of the work, even if the damage was caused by the Association's removal, disassembly, or demolition of the Condominium Property if such was connected to the Association's responsibility for reconstruction or to mitigate damage, notwithstanding any requirement to repair incidental damage found elsewhere in the Declaration. Assessments shall be against all Unit Owners as a Common Expense for damage to the Common Elements (including Limited Common Elements, which the Association maintains, repairs and replaces as a Common Expense), in sufficient amounts to provide funds for the payment of such costs. Such Assessments on account of damage to Common Elements shall be in proportion to the Owner's share in the Common Expenses. Assessments shall be a Limited Common Expense if damage is to a Limited Common Element that the Association maintains as a Limited Common Expense. **It is the intention of this provision to provide an alternative method of allocating post-casualty repair and damage repair expenses, as authorized by the Act. The Board of Directors may record a notice to the effect without need of further approval of the Unit Owners.**

13.6 ***Termination of Condominium if Not Reconstructed.*** If the Owners vote not to reconstruct the Condominium by vote described in Article 13.2.2 hereof, the Condominium shall be terminated in accordance with the procedures set forth in Article 15 hereof.

13.7 **Additional Board Authority.** In addition to Board authority granted by law and the Condominium Documents, the Board shall have the following power and authority in connection with emergency conditions:

13.7.1 To determine after a casualty whether the Units can be safely occupied, which decision shall not be conclusive as to the determination of habitability in Article 13.2. Such decision shall be based upon the advice of emergency management officials or a licensed professional.

13.7.2 To declare any portion of the Condominium Property or Association Property unavailable for occupation by Owners, family members, Tenants, or Guests after a casualty, including during the rebuilding process. Such decision by the Board shall be based upon the advice of emergency management officials or a licensed professional (such as an engineer) and can be made only if necessary to protect the health, safety or welfare of the Association, Owners, family members, Tenants or Guests.

13.7.3 To mitigate damage and take action to prevent the spread of fungus (including but not limited to mold and mildew) by tearing out wet drywall and carpet (even if the Unit Owner is obligated to insure and/or replace those items) and to remove personal property from the Unit and dispose of damaged property or store such property onsite or at an offsite location, with Owners responsible for reimbursing the Association for items for which the Owner is responsible but which may be necessary to prevent further damage. The Association shall bear no liability for such actions, if taken in good faith.

13.7.4 To contract on behalf of Unit Owners, with said Owners responsible to reimburse the Association, for items for which the Owner is responsible but which may be necessary to prevent further damage. Without limitation, this includes, debris removal, dry-out of Units and replacement of damaged air conditioners when necessary to provide climate control in the Units. The Unit Owner shall be responsible to reimburse the Association within thirty (30) days of the Association's invoice. The Association's right to payment shall be secured by a Common Expense lien as provided in the Act and actions to collect such sums shall entitle the Association to recover interest, late fees, attorney's fees and other costs and expenses of collection.

13.7.5 To implement a disaster plan prior to, during or after an impending disaster including, but not limited to, shutting down elevators, electricity, security systems, and air conditioners.

13.7.6 To adopt, by Board action, emergency assessments with such notice deemed practicable by the Board.

13.7.7 To adopt emergency Rules and Regulations governing the use and occupancy of the Units, Common Elements, Limited Common Elements, and Association property, with notice given only to those Directors with whom it is practicable to communicate.

13.7.8 To enter into agreements with local counties and municipalities to assist counties and municipalities with debris removal.

13.7.9 The Board may relocate the principal office or designate alternative principal offices or authorize the officers to do so.

13.7.10 To hold Board meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in an practicable manner, including publication or radio. Minimum of three (3) Directors in attendance at such meeting shall constitute a quorum.

13.7.11 To change or postpone the annual meeting date to a date and time determined by the Board, even if such change will result in not holding an annual meeting in a particular calendar year.

13.7.12 To use reserve funds to meet Association needs, and use reserve funds as collateral for Association loans.

13.7.13 To exercise all emergency powers set forth in the Act.

14. CONDEMNATION.

14.1 ***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. Awards for the 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.

14.2 ***Determination Whether to Continue Condominium.*** Whether the Condominium will be continued after a taking by condemnation or eminent domain will be determined in the same manner provided for determining whether damaged property will be repaired or reconstructed or after a casualty, as set forth in Article 13 hereof.

14.3 ***Disbursement of Funds.*** If the Condominium is terminated, the proceeds of all awards and other payments will be deemed 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, but the size of the Condominium will be reduced, the Owners of Units to be diminished or eliminated, if any, will first 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.

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

14.5 ***Units Reduced but Habitable.*** If the size of a Unit must be reduced, 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 doing so 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.

14.6 ***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 award shall be paid to the Owner of the Unit and to each mortgagee of the Unit as their interests may appear, the remittance being made payable jointly to the Owner and mortgagee(s).

(B) ***Addition to Common Elements.*** If possible and practical, any remaining portion of the Unit shall become 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 equitably distribute the ownership of the common elements among the changed number of Units.

(D) ***Assessments.*** If the award to the Association for damage to the common elements resulting from a taking is not sufficient to pay the cost of converting the remaining portions

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 all Unit Owners who will continue as Owners of Units after the changes in the Condominium affected by the taking. The assessments shall be made in proportion to the shares of those Owners in the common elements after the changes affected by the taking.

14.7 ***Taking of Common Elements.*** Awards for the taking of common elements only 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 become part of the common surplus.

14.8 ***Amendment of Declaration.*** Any changes in Units and in the common elements, in the ownership of the common elements, and in the sharing of common expenses that are necessitated by condemnation or eminent domain shall be accomplished by amending this Declaration and Exhibit "D" in conformity to the changes mandated by Sections 14.5 and 14.6 above. Such amendments need be approved only by the Owners of a majority of the Units. Approval of, or joinder by, lien holders is not required for any such amendment.

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

15.1 ***Methods of Termination.*** The Condominium may be terminated under any one of the following alternatives:

15.1.1 ***Termination Because of Economic Waste or Impossibility.*** Notwithstanding anything to the contrary in this Declaration, the Condominium form of ownership may be terminated by a plan of termination approved by the percentage of Voting Interests necessary to amend the Declaration when:

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

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

It is the intent of this provision to incorporate Section 718.117(2), Florida Statutes, as amended from time to time.

15.1.2 ***Optional Termination.*** Except as provided in Section 15.1.1, the Condominium form of ownership may be terminated pursuant to a plan of termination approved by at least eighty percent

(80%) of the total Voting Interests of the Condominium if not more than ten percent (10%) of the total Voting Interests of the Condominium have rejected the plan of termination by negative vote or by providing written objections thereto. It is the intent of this provision to incorporate the provisions of Section 718.117(3), Florida Statutes, as amended from time to time.

15.1.3 ***Very Substantial Damage***. If the Condominium suffers major damage, which shall mean that more than one-half the Units in the Condominium are rendered uninhabitable as determined in the sole discretion of the Board of Directors, the Condominium may be terminated if seventy-five percent (75%) of the total Voting Interests in the Condominium vote to approve a plan of termination.

15.1.4 ***Mortgage Lienholders***. Notwithstanding any provision to the contrary in this Declaration or Chapter 718, approval of a plan of termination by the holder of a recorded mortgage lien affecting a Condominium Parcel is not required unless the plan of termination would result in less than the full satisfaction of the mortgage lien affecting the Condominium Parcel. If such approval is required and not given, a holder of a recorded mortgage lien who objects to a plan of termination may contest the plan as provided in Sections 718.117(16), Florida Statutes, as amended from time to time.

15.2 ***Procedures for Termination and Sale***. The termination of the Condominium via either of the methods set forth in 15.1.1 through 15.1.3 herein shall be as set forth in Section 718.117(4) – (20), Florida Statutes, as amended from time to time.

15.3 ***Amendment***. This Article 15 may be amended in the same manner in which this Condominium Declaration may be amended generally, as set forth in Article 18.

16. OBLIGATIONS OF OWNERS.

16.1 ***Duty to Comply Right to Sue***. Each Unit Owner, and guests, and the Association shall be governed by and shall comply with the provisions of the Condominium Act, the Declaration, the documents creating the Association, the Bylaws and the Rules and Regulations. Actions for damages or for injunctive relief, or both, for failure to comply may be brought by the Association or by a Unit Owner against:

- (A) The Association;
- (B) A Unit Owner;
- (C) Anyone who occupies a Unit; or

(D) Any member of the Board of Directors who willfully and knowingly fails to comply with these provisions.

Actions arising under this subsection shall not be deemed to be actions for specific performance.

16.2 ***Waiver of Rights.*** The failure of the Association or of a member to enforce any right, provision, covenant or condition which may be granted by the condominium documents shall not constitute a waiver of the right of the Association or member to enforce such right, provision, covenant or condition in the future. A provision of the Condominium Act may not be waived by a Unit Owner if the waiver would adversely affect the rights of the Owner or defeat the purpose of the provision, except that Unit Owners or Directors may waive notice of specific meetings as provided in the Bylaws. Any written instrument or instruction given by a prospective purchaser or Unit Owner to an escrow agent may be relied upon by the escrow agent, whether or not such instruction and the payment of funds thereunder might otherwise constitute a waiver of any provision of the Condominium Act.

16.3 ***Attorney Fees.*** In any legal proceeding arising out of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Condominium Act or the condominium documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys fees as may be awarded by the court.

16.4 ***No Election of Remedies.*** All rights, remedies and privileges granted to the Association or Unit Owners under any terms, provisions, covenants, or conditions of the condominium documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising such other additional rights, remedies, or privileges as may be granted by the condominium documents, or at law or in equity.

17. RIGHTS OF MORTGAGEES.

17.1 ***Approvals.*** Written consent of the institutional mortgagee of a Unit shall be required for any amendment to the Declaration which would decrease the percentage interests of the Unit in the ownership of the common elements, except as provided otherwise in this condominium.

17.2 ***Notice of Casualty or Condemnation.*** In the event of condemnation, eminent domain proceedings, 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.

17.3 ***Mortgage Foreclosure.*** If the mortgagee of a first mortgage of record acquires title to a condominium parcel as a result of foreclosure of the mortgage, or by a deed given in lieu of foreclosure, the liability of the mortgagee for the share of common expenses or assessments attributable to the condominium parcel, or chargeable to the former owner of the parcel, which came due prior to the mortgagee's acquisition of title shall be governed by the Condominium Act, as it may be amended from time to time. Any unpaid share of common expenses for which such acquirer is exempt from liability becomes a common expense collectible from all Unit Owners, including the acquirer and his successors and assigns. No Owner or acquirer of title to a condominium parcel by foreclosure (or by a deed in lieu of foreclosure) may during his period of ownership, whether or not the parcel is occupied, be excused from the payment of any assessments coming due during the period of such ownership.

17.4 ***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. A 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.

17.5 ***Right to Inspect Books.*** The Association shall make available to institutional mortgagees upon request current copies of the recorded condominium documents and the books, records and financial statements of the Association. "Available" means ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies provided at the request of the mortgagee shall be at the expense of the mortgagee.

17.6 ***Financial Statement.*** Any institutional mortgagee is entitled, upon written request, to a copy of the financial statement or financial report of the Association as delivered, to the Owners for the immediately preceding fiscal year.

18. AMENDMENT OF DECLARATION. All amendments to this Declaration shall be proposed and adopted as follows:

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

18.2 ***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 be given.

18.3 **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 a majority of the voting interests present, in person or by proxy, at a duly called meeting of the Association.

18.4 **Certificate; Recording.** A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be in the form required by law and shall be executed by 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 Lee County, Florida.

19. MISCELLANEOUS.

19.1 **Severability.** The invalidity or non-enforceability 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 exhibit attached thereto, shall not effect the remaining portions thereof.

19.2 **Applicable Statutes.** The validity, application and construction of this Declaration and its exhibits shall be governed by the Laws of Florida, particularly the Condominium Act, as it exists on the date of recording this Declaration in the Public Records of Lee County, Florida.

19.3 **Conflicts.** If there is an irreconcilable conflict between any provision of this Declaration and the Governing Documents or the Condominium Act, the Governing Documents or the Condominium Act shall control. If there is a conflict between this Declaration and the Association's Articles of Incorporation or Bylaws, this Declaration shall control.

19.4 **Interpretation.** The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.

19.5 **Headings and Capitalization.** The headings used in the condominium documents, and the capitalization of certain words, are for reference and convenience purposes only, and do not constitute substantive matter intended to be considered in construing the terms and provisions of these documents.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, acknowledged and filed the foregoing Amended and Restated Condominium Declaration, under the laws of the State of Florida, this 17 day of MARCH 2014.

WITNESSES:

CASA BONITA ROYALE
CONDOMINIUM ASSOCIATION, INC.

John Mark Weed
Witness Signature
John Mark Weed
Printed Name of Witness

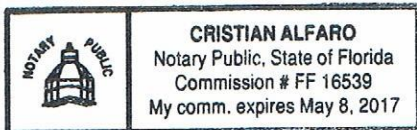
By: Lee A Christoferson
Print Name: LEE A Christoferson
President

Milre Neerham
Witness Signature
MILRE NEERHAM
Printed Name

(Corporate Seal)

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was executed before me this 17 day of MARCH, 2014, by LEE CHRISTOFERSON, President of Casa Bonita Royale Condominium Association, Inc., a Florida corporation, on behalf of the corporation. He/She is personally known to me, or did produce FLDL# C623-S21-46-362-8 as identification.



(SEAL)

Cristian Alfaro
Notary Public
CRISTIAN ALFARO
Printed Name of Notary Public