

**AMENDED AND RESTATED
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OF
SOUTHMONT COVE AT LEXINGTON
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AMENDED AND RESTATED
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SOUTHMONT COVE AT LEXINGTON CONDOMINIUM

1. DEFINITIONS. As used herein or elsewhere in the Condominium Documents, unless otherwise provided, the terms used shall be as defined in the Act and as herein provided:

1.1 “Act” or “Condominium Act” means the Condominium Act (Chapter 718, Florida Statutes, 2014), as it now exists or as it may be amended from time to time, including the definitions therein contained.

1.2 “Articles” means the Articles of Incorporation as attached hereto as Exhibit “B”, as they may be amended from time to time.

1.3 “Assessment” means a share of the funds required for the payment of Common Expenses, which from time to time is assessed against the Units.

1.4 “Association” means SOUTHMONT COVE AT LEXINGTON CONDOMINIUM ASSOCIATION, INC., a Florida Corporation Not For Profit, the entity responsible for the operation of the Southmont Cove at Lexington Condominium No. 1, Southmont Cove at Lexington Condominium No. 2, Southmont Cove at Lexington Condominium No. 3, Southmont Cove at Lexington Condominium No. 4 and Southmont Cove at Lexington Condominium No. 5.

1.5 “Association Property” means all property owned by the Association for the use and benefit of the Unit Owners.

1.6 “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.”

1.7 “Building” means the structures in which the Units and portions of the Common Elements are located.

1.8 “Bylaws” mean the Bylaws of the Association as attached hereto as Exhibit “C”, as they may be amended from time to time.

1.9 “Casualty” for the purposes of this Declaration, and not for the purpose of construing coverage between any insurer and insured, means an event which causes damage to the Condominium Property due to some sudden, fortuitous cause, including (but not limited to) fire, flood, hail, wind, rain, vandalism, explosion, or bursting pipes, but does not include progressive decay or corrosion, or slow or continuous leaks.

1.10 “Charge” means any legal or equitable indebtedness of a Unit Owner to the Association, or other sums owed to or due to the Association from a Unit Owner, or any cost or

expense incurred by the Association on behalf of or because of a Unit Owner, other than Assessments for Common Expenses, which the Unit Owner is obligated to pay to the Association. Said obligations may arise by oral or written contract, by law or in equity, or may be created by these Condominium Documents.

1.11 “Committee” means a group of Board Members, Unit Owners, or Board Members and/or Unit Owners and/or other persons appointed by the Board to make reports or recommendations to the Board, to take action on behalf of the Board, or to take such actions as the Resolution creating the Committee, or the Directors of the Board, may dictate.

1.12 “Common Elements” means and includes:

1.12.1 The portions of the Condominium Property not included within the Units.

1.12.2 Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to Units and the Common Elements.

1.12.3 An easement of support in every portion of a Unit which contributes to the support of the Building, including but not limited to all load bearing interior walls within the Units.

1.12.4 The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements, excluding all public or private (e.g., cable television) utility installations thereon or therein to the extent such is the intention of the Association and the party who installs such installations and as provided in the Declaration of Condominium, as originally recorded.

1.12.5 Any other parts of the Condominium Property designated as Common Elements in this Declaration.

1.13 “Common Expenses of the Association” means those expenses for which all Unit Owners are liable to the Association, including but not limited to expenses of administration, maintenance, and operation of the Association and such other expenses as may be declared Common Expenses of the Association either by this Declaration, the Articles of Incorporation, the Bylaws or by the Board of Directors. Maintenance and repair of all Association Property is a Common Expense of the Association. Bulk interior pest control for Units, if provided by the Association, is a Common Expense of the Association. Common Expenses of the Association include, but are not limited to, such items as cost of premiums for public liability insurance, accounting and legal fees, and wages and fees for managerial and other services. Legal fees regarding the rights, liabilities, interests or affairs of the Association as an entity shall be a Common Expense of the Association. The expenses of communications services as defined in Chapter 202, information services, or Internet services, are specifically considered a Common Expense of the Association, if so designated by the Board. Common Expenses of the Association also include reasonable insurance for Directors and Officers, commonly used road maintenance and operation expenses, security services and other expenses which are reasonably related to the general benefit of the Unit Owners of the several Condominiums even if such expenses do not attach to the property or the Condominiums of the Association.

Common Expenses of the Association shall be shared 60/300 by Condominium No. 1 Owners, 60/300 by Condominium No. 2 Owners, 60/300 by Condominium No. 3 Owners, 60/300 by Condominium No. 4 Owners, and 60/300 by Condominium No. 5 Owners. Determining the allocation of the Common Expenses of the Association as opposed to Common Expenses of the Condominium shall be in the sole discretion of the Board of Directors of the Association.

1.14 “Common Expenses of the Condominium” means those expenses for which Unit Owners in the individual Condominiums are liable to the Association. Expenses pertaining to the maintenance, repair, and replacement of the Common Elements of the individual Condominiums is a Common Expense of the Condominium. By way of example, but not limitation, building painting, roof repair, exterior ground maintenance, and property insurance are Common Expenses of the Condominium. Legal fees involving the interests of the physical property within a particular Condominium, including but not limited to assessment collection matters, shall be a Common Expense of the Condominium. Determining the allocation of the Common Expenses of the Condominium as opposed to Common Expenses of the Association shall be in the sole discretion of the Board of Directors of the Association. When the Association receives a single billing for an item that is declared a Common Expense of the Condominium (e.g., lawn maintenance, property insurance, etc.) the Board may allocate segments of said invoices to the individual Condominiums as the Board in its sole discretion deems fair and equitable and related to the actual allocation to each Condominium. Common Expenses of the Condominium shall be shared by Condominium No. 1 Unit Owners on a 1/60 basis, by Condominium No. 2 Unit Owners on a 1/60 basis, by Condominium No. 3 Unit Owners on a 1/60 basis, by Condominium No. 4 Unit Owners on a 1/60 basis, and by Condominium No. 5 Unit Owners on a 1/60 basis. Reserves required by the Act and the Condominium Documents are a Common Expense of the Condominium.

1.15 “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. Common Surplus of the Condominium shall be determined in the same manner as Common Expenses of the Condominium. Common Surplus of the Association shall be determined in the same manner as Common Expenses of the Association is allocated.

1.16 “Community Association” means Lexington Community Association, Inc., a Florida corporation not for profit, being the entity responsible for the administration of the Community Declaration.

1.17 “Community Covenants” means the Declaration of Covenants for Lexington recorded in the Public Records of Lee County, Florida, which Declaration encumbers, *inter alia*, the Condominium Property, and when the context permits, shall also mean the Articles of Incorporation and Bylaws of the Community Association, all as now or hereafter amended, modified or supplemented.

1.18 “Condominium Documents” means this Declaration; the Surveyor’s Plat and Site Plans, hereinafter collectively referred to as “the Plat” or “Condominium Plat”, copies of which are attached hereto as Exhibit “A”; Articles of Incorporation of Southmont Cove at Lexington Condominium Association, Inc. attached hereto as Exhibit “B”; Bylaws attached

hereto as Exhibit "C"; and Rules and Regulations. The Rules and Regulations need not (but may) be recorded in the County Public Records in order to be valid.

1.19 "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.

1.20 "Condominium Property" means the land and property interests subjected to condominium ownership under this Declaration, all improvements on the land as depicted in the Surveyor's Plat, or replacement thereof of like kind and quality, and alterations or additions made to the Common Elements or Association Property by the Association and all easements and rights appurtenant thereto intended for use in connection with the Condominium. Additions or alterations made to the Units or Common Elements by Unit Owners (or their predecessors in title) are not part of the Condominium Property. References in the Condominium Documents to Condominium Property shall include Association Property, unless indicated otherwise.

1.21 "County" means the County of Lee, State of Florida.

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

1.23 "Domestic Partners" means two adults who have chosen to share their lives in a committed relationship that includes a mutual and exclusive commitment to each other's well-being, wherein each partner shares the same permanent address, absence of a blood relationship that would preclude marriage in the State of Florida, both adults are of the age of legal majority, joint responsibility for each other's common welfare, financial interdependence and mutual obligation akin to those of marriage. Domestic Partners shall be considered married individuals for the purpose of the Declaration.

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

1.24.1 One natural person, his spouse or Domestic Partner, if any, and their custodial children, if any.

1.24.2 Not more than two natural persons not meeting the requirement of Article 1.24.1 above, but who customarily and continuously reside together as a single housekeeping Unit, and the custodial children of said parties, if any.

1.24.3 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.

1.25 "Fractional Ownership" or "Unit 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.

1.26 “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 on or occupies the Condominium Property on a temporary basis at the expressed or implied invitation of the Owner or other legally permitted Occupant, without the payment of consideration.

1.27 “Insurable Improvements” shall mean the “Buildings” as defined in Article 1.7 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. If a Unit Owner has replaced any glass with impact glass which meets the applicable code at the time of such replacement, such glass and its related framework shall be considered part of the Insurable Improvements, unless prohibited by law.

1.28 “Invitee” or “Licensee” shall mean a person or persons expressly or impliedly allowed entry onto the Condominium Property for the purpose of conducting business with a Unit’s occupant, or otherwise entering the Condominium Property on a temporary basis at the expressed or implied consent of the Unit Owner or Unit Occupant, including but not limited to contractors, workmen, delivery persons, domestic assistants and health care assistants. A Guest is an Invitee.

1.29 “Lease” when used in the context of the renting of Units, means the grant by a Unit Owner of a right of use of the Owner’s Unit for consideration.

1.30 “Lien for Charges” means a lien which is recorded to secure a Charge.

1.31 “Limited Common Elements” means those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of all other Units, as specified in this Declaration. References herein to Common Elements shall include all Limited Common Elements, unless the context would prohibit or it is otherwise expressly provided. 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 (by way of example, but not limitation, air conditioning compressors) shall serve to define the area as a Limited Common Element.

1.32 “Limited Common Expenses” 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 benefiting Unit Owner(s), as authorized by Section 718.113(1) of the Act, and if so provided in this Declaration.

1.33 “Maintenance” shall mean, unless the context of a provision in the Condominium Documents requires otherwise, day to day cleaning, heavy cleaning, painting where applicable, routine maintenance, ongoing maintenance, preventative maintenance, as well as repair or replacement. The term “maintenance” shall not include repair after casualty, unless the context of a provision in the Condominium Documents requires otherwise. Whenever a Unit Owner is obligated by this Declaration or law to maintain, repair or replace portions of the Condominium Property, the Board of Directors shall have the authority to establish reasonable standards for such maintenance, repair or replacement, including mandating maintenance, repair or replacement of said items, when the Board deems same are reasonably necessary.

1.34 **“Member”** means the record Owner(s) of legal title to a Unit.

1.35 **“Occupant”** when used in connection with a Unit, means a person who is physically present in a Unit for two or more consecutive days, including staying overnight for one night.

1.36 **“Occupy”** when used in connection with a Unit, means the act of staying in the Unit for two or more consecutive days, including an overnight stay of at least one night.

1.37 **“Primary Occupant”** means one or more natural person(s) 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 Domestic Partners, or when title is held by a trust, corporation or other entity which is not a natural person, except where the context clearly indicates otherwise, the term “Owner” shall include “Primary Occupant”.

1.38 **“Resident”** means any person who is occupying a Unit for thirty (30) days, whether or not consecutive, in any calendar year and shall include, as applicable, Owners, Tenants and members of their respective Families who reside in the Unit.

1.39 **“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 Declaration of Condominium.

1.40 **“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 goods and services, etc. The term “Tenant” shall be used interchangeably with “Lessee”.

1.41 **“Unit”** means a part of the Condominium Property subject to exclusive ownership.

1.42 **“Unit Owner” or “Owner”** means the record Owner of a Condominium Parcel. Wherever a portion of the Condominium Documents, including the Rules and Regulations, proscribes, restricts, prohibits, or requires that a “Unit Owner” take or refrain from taking any action, or engage or refrain from engaging in any conduct, the term Unit Owner shall be deemed to include, unless the context specifically suggests otherwise, the Unit Owner’s Family, Tenants, Residents, Guests, Licensees and Invitees, and as may be applicable, the family members of such person, as well as employees or agents of such persons.

1.43 **“Utility Services”** 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, garbage and sewage disposal, cable television and communication services.

1.44 **“Voting Interests of the Association”** means and refers to the arrangement established in the Condominium Documents by which the Owners of each Unit collectively are

entitled to one vote in the Association matters. There are 300 Units, so the total number of Voting Interests of the Association is 300. Matters affecting the entire Association (all Condominiums), as determined by the Board of Directors, shall be decided by the Voting Interests of the Association. By way of example, but not limitation, the election of Directors, the recall of Directors, the waiver of financial reporting requirements, alterations of Association Property, certain alterations of Common Elements, certain amendments to the Declaration of Condominium, amendments to the Articles of Incorporation, and amendments to the Bylaws, are decided by the Voting Interests of the Association. Determining whether a voting item involves the Voting Interests of the Association as opposed to the Voting Interests of the Condominium, shall be determined in the sole discretion of the Board of Directors of the Association.

1.45 "Voting Interests of the Condominium" means those voting items which are to be considered for vote by the Unit Owners in individual Condominiums in accordance with the Class Quorum and Voting procedures specified in Article 2.11 of the Bylaws. By way of example, but not limitation, certain material alterations of Common Elements, certain amendments to the Declaration of Condominium, and the waiver or reduction of reserve funding shall be based upon the Voting Interests of the Condominium. Determining whether a voting item is a matter involving the Voting Interests of the Condominium, as opposed to Voting Interests of the Association shall be determined in the sole discretion of the Board of Directors of the Association.

2. STATEMENT OF CONDOMINIUM DECLARATION. Worthington Communities, Inc., a Florida corporation, submitted the property described in Exhibit "A" hereto and as described above to condominium ownership in accordance with Florida Statutes.

3. CONDOMINIUM NAME. The name by which this Condominium is identified is "Southmont Cove at Lexington Condominium No. 1".

4. UNIT IDENTIFICATION. The identification of each Unit shall be by number and shall be as indicated on the Plat, Exhibit "A."

5. SURVEY AND GRAPHIC DESCRIPTION. A survey of the land previously submitted to condominium ownership and a plat thereof describing each Unit, Common Elements and their relative location and the approximate dimensions of each Unit are as shown on the Plat which is attached as Exhibit "A".

6. VOTING RIGHTS; OWNERSHIP OF COMMON ELEMENTS. The voting rights of the Owner of each Unit shall be one Voting Interest per Unit. Voting rights may be suspended pursuant to the terms of the Condominium Documents and/or Florida Law. The sharing of Common Expenses and ownership of Common Elements and Common Surplus shall be on a 1/300th basis for Common Expenses of the Association and 1/60th basis for Common Expenses of the Condominium. Suspension of voting rights shall not affect the basis for which Common Expenses are shared or Common Elements and Common Surplus owned. However, suspended Voting Interests shall be subtracted from the total number of votes required when calculating any required vote or quorum during the period for which said Voting Interest is suspended. The undivided share of ownership of the Common Elements and Common Surplus appurtenant to a Unit cannot be conveyed or separately hypothecated. As long as the Condominium exists, the

Common Elements cannot be partitioned. The shares in the funds and assets of the Association cannot be assigned by a Unit Owner, pledged or transferred except as an appurtenance to the Units.

7. 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, unless released in connection with termination of the Condominium. None of these easements may be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of the Unit Owners with respect to such easements.

7.1 Utility and Other Services; Drainage. Easements are reserved under, through and over the Condominium Property as may be required from time to time for utility, cable television, communications and security systems, and other services and drainage in order to serve the Condominium. The Association shall have a right of access to each Unit during reasonable hours when necessary for maintenance, repair or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.

7.2 Encroachments. If (a) any portion of the Common Elements encroaches upon any Unit; (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements; or (c) any encroachment shall hereafter occur as a result of (i) construction of the Improvements; (ii) settling or shifting of the Improvements; (iii) any alteration or repair to the Common Elements made by or with the consent of the Association or Developer, as appropriate, or (iv) any repair or restoration of the Improvements (or any portion thereof) or any Unit after damage by fire or other casualty or by taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Improvements shall stand.

7.3 Ingress and Egress. A non-exclusive easement in favor of each Unit Owner and Resident, their Guests and Invitees, shall exist 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 and intended for such purpose. None of the easements specified in this Article 7.3 shall be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering such easements (other than those on Condominium Parcels) automatically shall be subordinate to the rights of Unit Owners and the Association with respect to such easements.

7.4 Support. Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.

7.5 Air Conditioning Line Relocation. An easement is hereby created and reserved through the Units for the relocation of air conditioning lines as provided in Article 9.2.11.

7.6 Other Condominiums; Community Association. The Community Association shall have all easements provided it in the Community Covenants including, without limitation, those over "Lots" (as defined therein). Additionally, the Community Association shall have a perpetual easement over the Common Elements to perform the maintenance, repair and replacement functions described in Article 22.1 of this Declaration.

Any recreation or other commonly-used facilities located within the Condominium Property shall be subject to a perpetual, non-exclusive easement in favor of the Owners of Units in any other Condominium operated by the Association, and their Family members, Tenants, Guests and Invitees, provided that (i) the use of such easement shall be subject to reasonable regulation by the Association and (ii) such Unit Owners share in the expenses of such facilities in the manner provided in the Bylaws.

Each Owner and Occupant, and the Guests and Invitees thereof, if any Unit in a Condominium operated by the Association shall also have a perpetual easement of ingress and egress for vehicular and pedestrian use over all portions of the Common Elements reasonably suited for such purpose.

7.7 Additional Easements. The Association, by and through the Board of Directors on behalf of all Unit Owners (each of whom hereby appoints the Association as its attorney-in-fact for this purpose), shall have the right to grant such additional general ("blanket") and specific electric, gas or other utility, cable television, security systems, communications or service easements (and appropriate bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or relocate any such existing easements or drainage facilities, in any portion of the Condominium Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Association shall deem necessary or desirable, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for dwelling purposes.

8. CONDOMINIUM UNITS AND APPURTENANCES. The Land has constructed thereon the Building, consisting of two (2) separate Buildings each containing thirty (30) Units for a total of sixty (60) Units. Each Unit is identified by a separate numerical designation. The designation of each of such Units is set forth on Exhibit "A" attached hereto. Exhibit "A" consists of a survey of the Land, a graphic description of the Improvements located thereon, including, but not limited to, the Building in which the Units are located, and a plot plan thereof. Said Exhibit "A", together with this Declaration, is sufficient detail to identify the Common Elements and each Unit and their relative locations and dimensions.

There shall pass with a Unit as appurtenances thereto (a) an undivided share in the Common Elements and Common Surplus; (b) the exclusive right to use such portion of the Common Elements as may be provided in this Declaration, including the applicable Limited Common Elements; (c) 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 be lawfully altered or reconstructed from time to time, provided that an easement in airspace which is vacated shall be terminated automatically; (d)

membership in the Association with the full voting rights appurtenant thereto; and (e) other appurtenances as may be provided by this Declaration or the Act.

8.1 Horizontal Boundaries: The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the perimetrical boundaries:

8.1.1 Upper Boundary – The horizontal plane of the unfinished lower surface of the ceiling of the Unit.

8.1.2 Lower Boundary – The horizontal plane of the unfinished upper surface of the floor of the Unit.

8.1.3 Interior Divisions – Except as provided in Articles 8.1.1 and 8.1.2 above, not part of the floor of the top floor, ceiling of the bottom floor, stairwell adjoining the two-floors or non-structural interior walls shall be considered a boundary of the Unit.

8.2 Perimetrical Boundaries: The perimetrical boundaries of the Unit shall be the vertical planes of the unfinished interior surfaces of the walls bounding the Unit extended to their planar intersections with each other and with the upper and lower boundaries.

8.3 Apertures. Where there are apertures in any boundary, including, but not limited to, windows, doors, bay windows and skylights, such boundaries shall be extended to include the windows, doors and other fixtures located in such apertures, including all frameworks thereof; provided, however, that exterior surfaces made of glass or other transparent material, and the exterior doors, shall not be included in the boundaries of the Unit and shall therefore be Common Elements.

8.4 Exceptions. In cases not specifically covered above, and/or in case of conflict or ambiguity, the survey of the Units set forth as Exhibit “A” hereto shall control in determining the boundaries of a Unit, except the provisions of Article 8.3 above shall control unless specifically depicted otherwise on such survey.

8.5 Limited Common Elements. Each Unit may have, to the extent applicable and subject to the provisions of this Declaration, as Limited Common Elements appurtenant thereto:

8.5.1 Lanais. Any lanai (and all improvements thereto) as to which direct and exclusive access shall be afforded to any particular Unit or Units to the exclusion of others shall be a Limited Common Element of such Unit(s). The boundaries of same shall be (i) lower: the upper unfinished surface of the slab of the lanai, (ii) upper: the lower unfinished surface of any overhanging slab, (iii) perimetrical: the exterior surface of any adjoining Common Element wall or, where there is no wall on the first floor lanai, the edge of the concrete slab facing the lanai and (iv) other perimetrical: any sliding glass door(s) or fixed glass panel(s) abutting the lanai.

8.5.2 Parking. Each Unit is assigned the use of one (1) parking space in a carport, such space to be Limited Common Element of the Unit to which it is assigned.

8.5.3 Storage Closets. Each Unit is assigned the use of one Storage Closet, which is a Limited Common Element.

8.5.4 Conveyance of a Unit. A conveyance of a Unit shall automatically include all Limited Common Elements appurtenant to that Unit unless otherwise specified in the instrument of such conveyance.

8.5.5 Miscellaneous Areas, Equipment. Any fixtures or equipment (e.g., an air conditioning unit located adjacent to the Unit and related lines and equipment) serving a Unit or Units exclusively and any area upon/within which such fixtures or equipment are located shall be Limited Common Elements of such Unit(s).

9. MAINTENANCE, ALTERATION AND IMPROVEMENTS. Responsibility for the maintenance of the Condominium Property, and restrictions upon the alteration and improvement thereof, shall be as follows:

9.1 Association Maintenance, Repair and Replacement Obligation. The maintenance, repair and replacement of all Common Elements (except Limited Common Elements are to be maintained, repaired and replaced by the Unit Owner unless this Declaration specifically delegates responsibility to the Association) and Association Property shall be performed by the Association, and the cost is a Common Expense, except as may otherwise be specifically noted with respect to Limited Common Elements.

9.1.1 General Exterior and Structural Maintenance. The Association's maintenance, repair and replacement responsibility shall include, but not be limited to, exterior painting, structural maintenance of the Buildings, roofing, maintenance of parking facilities (except as otherwise provided herein to the contrary) and general exterior maintenance, but shall not include maintenance, repair and replacement of railings, screens, screen enclosures, windows, sliding glass doors, hurricane shutters, nor any alteration or addition to the Condominium Property made by a Unit Owner or his predecessors in title, nor any portions of the Condominium Property exposed to the elements or any structural element for which this Declaration delegates responsibility to the Unit Owner.

9.1.2 Plumbing and Electrical. The Association's maintenance, repair and replacement responsibility includes, except as may be specifically otherwise provided to the contrary, without limitation, all electrical conduits and installations located from (but not including) the circuit breaker outward; electrical conduits and installations located within or outside a Unit for the furnishing of utilities to another Unit, more than one Unit, or the Common Elements; plumbing fixtures and installations located within or outside a Unit for the furnishing of utilities to another Unit, more than one Unit, or the Common Elements. The Association's maintenance, repair and replacement responsibility does not include electrical fixtures, switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within the Unit and serving only that Unit, said items being the maintenance responsibility of the Unit Owners.

9.1.3 Incidental Damage. If, in connection with the discharge of its maintenance, repair or replacement responsibilities, the Association must remove, disassemble, or destroy portions of the Condominium Property which the Unit Owner is required to maintain, repair, or replace, the Association shall be responsible for reinstallation or replacement of that item, including cabinetry, drywall and moldings, to its unfinished state, and excluding floor

coverings, wall coverings, ceiling coverings, paint, wallpaper, paneling, and other finishes, provided that the Association's obligations are limited to the replacement of items that were part of the Condominium Property as originally installed by the Developer, or replacements thereof of like kind and quality, and except in cases of Casualty repair, or repair of damage caused by a covered cause of loss under the Association's applicable insurance policy, which shall be governed by Article 13 of this Declaration. Repair or replacement of all upgrades or additions, even if made by a predecessor in title, shall be the responsibility of the Unit Owner, specifically including but not limited to hurricane shutters which the Association must remove in connection with the maintenance of the Building, although the Association may have shutter reinstallation work performed by its contractor, and the Unit Owner will be responsible for reimbursement to the Association as a Charge.

9.2 Unit Owner Maintenance, Repair and Replacement Obligation. Each Unit Owner is responsible, at his own expense, for all maintenance, repair, and replacement of his own Unit and those Limited Common Elements serving his Unit, to the extent provided herein, whether ordinary or extraordinary, including, without limitation:

9.2.1 Windows. The Unit Owner shall maintain, repair and replace the window installations originally installed by the Developer or subsequent replacement thereof. Same includes the window frame and encasement, the plate glass, and all caulking thereof. The Unit Owner shall be responsible for interior window locking and opening mechanisms, the windowsill and glass breakage due to any cause. The Association shall be responsible for exterior caulking around the window frames as to original installations, and the Unit Owner as to replacements.

9.2.2 Screens, Screen Frames and Railings. The Unit Owner shall maintain, repair and replace all window screens, screen doors or lanai screens, including hardware and framing, and including lanai railings.

9.2.3 Drywall and Finishes. The Unit Owner shall maintain, repair and replace all drywall within the Unit (i.e. interior partition drywall), the finishes thereof (including baseboard, molding or trim), and the structural framing related thereto, including studs and insulation, and drywall. The Unit Owner shall maintain, repair and replace all finishes (including but not limited to) baseboard, molding or wall coverings within the Unit including those serving Unit boundary walls, floors or ceilings.

9.2.4 Electrical. The Unit Owner shall maintain, repair and replace all electrical fixtures, apparatus or installations located within the Unit, which service only the individual Unit plus all electrical fixtures, apparatus or installations from and including the circuit breaker inward, which service only that Unit.

9.2.5 Sliding Glass Doors. The Unit Owner shall maintain, repair and replace sliding glass doors and the structural components thereof including frames and fixed panels, the tracks therefore, all door hardware, trim, and caulking, subject to the provisions of Article 9.14.

9.2.6 Unit Front Entry Door. The Unit Owner shall maintain, repair and replace Unit front entry door, except that the Association may paint the exterior of entry doors, subject to the provisions of Article 9.14.

9.2.7 Other Doors. The Unit Owner shall maintain, repair and replace all other doors and the framing and structural components thereof, including trim, caulking, locks and hardware within or servicing the Unit, subject to the provisions of Article 9.14.

9.2.8 Hurricane Shutters. The Unit Owner shall maintain, repair and replace hurricane shutters and the structural components thereof, subject to the provisions of Article 9.14.

9.2.9 Plumbing and Mechanical. The Unit Owner shall maintain, repair and replace the electrical, mechanical and plumbing fixtures and outlets (including connections) within a Unit and serving only that Unit including sinks, toilets, tubs, showers, shower pans, and all related fixtures and installations.

9.2.10 Appliances. The Unit Owner shall maintain, repair and replace all appliances within the Unit.

9.2.11 Heating and Air Conditioning Equipment; Ductwork. The Unit Owner shall maintain, repair and replace all portions of the heating and air conditioning equipment (including compressors, air handlers, ductwork, refrigerant lines and discharge/drainage/overflow lines), dryer vents to the point of termination (even if exterior to the Unit), air conditioner or air handler discharge lines to the point of termination or connection to another discharge (even if exterior to the Unit). The Association is responsible for the maintenance, repair and replacement of air conditioning unit slabs. However, if any Unit Owner wishes to enlarge the air conditioning unit pad to accommodate the installation of a new air conditioning unit, prior approval of the Board shall be required (no Unit Owner approval shall be required), and the requesting Unit Owner shall be responsible for the cost of necessary expansion or reconfiguration of the pad.

The refrigerant and return lines (and all related lines, ductwork, wires and other apparatus) originally installed by the Developer, that run (or ran) between the outside air conditioning unit and the air handler located within the Unit runs (or ran) below the first floor slab horizontally, and then vertically to the air handler. When such installation needs to be replaced, it is not technically or economically feasible to run said lines in the original location. Accordingly, Unit Owners who must replace such installations may reroute these lines subject to prior approval of the Board (no Unit Owner approval is required). The Board shall specify where such lines shall be placed and may require that the chase be of sufficient size for other Unit Owners in the same Building, or certain areas of the Building, to install similar installations. Such installations may require access through parts of other Units, and the relocation of the lines within other Units, as well as drilling of holes, excavation of drywall, and the like. In general, such activity shall be limited to areas within the closet where Unit air handlers are housed. The Board may grant exceptions to this location restriction in extraordinary circumstances.

9.2.12 Floor Coverings. The Unit Owner shall maintain, repair and replace carpeting and other floor covering (including lanai areas).

9.2.13 Other Equipment and Fixtures. The Unit Owner shall maintain, repair and replace all other equipment or fixtures located or contained entirely within a Unit which serve only that Unit.

9.2.14 Plumbing (Incoming). The Unit Owner shall maintain, repair and replace all incoming plumbing from (and including) the shut-off valve (at hot water) inward.

9.2.15 Plumbing (Outgoing). The Unit Owner shall maintain, repair and replace outbound plumbing until the point of exit from the Unit boundary. Provided, however, that the Unit Owner is responsible for the remediation of clogged pipes or drains, where the source of blockage or obstruction originates from the Unit, even if the area where the blockage or obstruction is located is outside of the Unit boundary.

9.2.16 Storage Closets. Storage Closets shall be maintained, repaired and replaced by the Association as a Common Expense, provided however, that Unit Owners shall have the following maintenance responsibilities. Unit Owners shall be responsible for the replacement of light bulbs in Storage Closets. Any improvements made to the interior of the Storage Closet after original construction, including but not limited to shelving, additional electrical fixtures (which can only be installed with Board approval, as provided elsewhere in this Declaration), and the light, shall be the responsibility of the Unit Owner.

Any of the above-described areas that are to be maintained, repaired or replaced by the Unit Owner, or by the Association at the expense of the benefiting Unit(s), if located outside of the boundaries of the Unit, are declared Limited Common Elements. Responsibility for maintenance, repair and replacement of Condominium Property may not coincide with obligation for insurance of Condominium Property, nor its repair after Casualty, or damage from covered cause of loss under the Association's applicable insurance policy, which are governed by Article 12 and Article 13 hereof, respectively.

9.3 Appliance Maintenance Contracts. If there becomes available to the Association a program of contract maintenance for water heaters serving individual Units, and/or air conditioning compressors and/or air handlers and related equipment and fixtures serving individual Units, which the Association determines benefits the Owners to consider, then on agreement by a majority of the Voting Interests of the Condominium, in person or by proxy and voting at a meeting called for that purpose, or on agreement by a majority of the total Voting Interests of the Condominium in writing, the Association may enter into a maintenance contract. The expense of the maintenance contract to the Association is a Common Expense. All maintenance not covered by the maintenance contract is the responsibility of the Unit Owner.

9.4 Pest Control. The Association may supply pest control services for the inside of each Unit, with the cost thereof being part of the Common Expenses. A Unit Owner has the option to decline the service unless the Association determines that service is necessary for the protection of the balance of the Condominium, in which event the Unit Owner thereof either must permit the Association's pest control company to enter the Unit, or must employ a licensed pest control company to enter the Owner's Unit, on a regular basis to perform pest control services, and must furnish written evidence thereof to the Association. The cost of pest control

provided by the Association is a Common Expense, so the election of a Unit Owner not to use the service will not reduce the Owner's Assessment.

9.5 Unit Owner Obligations In Connection with Maintenance, Repair and Replacement. In connection with his maintenance, repair and replacement obligations, the Unit Owner shall have the responsibility to obtain the prior written approval of the Association, through the Board of Directors, before performing any maintenance, repair or replacement which requires: changes or alterations to the physical appearance of the Condominium Property visible from any exterior vantage; excavation; access to the Building roof; removal, modification or relocation of any interior partitions or walls, whether load-bearing or not; relocation of cabinets or appliances; relocation of utility, plumbing, or electrical installations or fixtures or ductwork; the use of heavy or noisy equipment; 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, as determined by the Board. The Association may condition such approval on criteria as the Board deems reasonable, including but not limited to:

- Preservation of uniformity of appearance;
- Use of contractor(s) that are properly licensed and fully insured, and that the Owner will be financially responsible for any resulting damage to persons or property not paid by the contractor's insurance. Unit Owners are responsible for the actions of their contractors and warrant to the Association, whether or not specifically made a condition of Association approval (or in cases where no Association approval is required) that all persons coming into the Condominium Property to perform work on or services for the Unit hold all proper licenses, have obtained all proper permits, and carry such insurance as may be required by law or the Board;
- Right (but not duty) of oversight by the Association or its agent;
- The Unit Owner submitting plans as to the scope of the contemplated repair;
- Restrictions as to hours of work;
- Imposition of time limits in which jobs must be completed and prohibitions against major renovations during certain times of year.
- Restrictions regarding equipment that may be parked or stored on or near the Condominium Property during construction.
- Restrictions regarding the transport and storage of materials and supplies necessary for the construction to be performed.

Unit Owners may not engage in "extensive" remodeling work or "heavy" construction activity, except with prior approval of the Board of Directors, and then, only during the months of May through October, inclusive. "Extensive" remodeling and "heavy" construction shall be as

defined by the Board of Directors from time to time, but, whether so defined or not, shall include, but not be limited to, activities involving the following:

- Activities involving the use of power equipment such as jackhammers, drills, saws, and the like, which create substantial noise, as determined by the Board.
- 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.
- Activities rendering the Unit uninhabitable during the performance of the work.
- Activities requiring the storage of materials or equipment on the premises outside of the Unit.
- Activities involving the presence of work crews or significant numbers of workers, as determined by the Board.
- Activities requiring the use of scaffolding, booms, or other forms of exterior access.

The Board may waive the prohibition against such work being done in the months of November through April in the case of an emergency, in *de minimus* cases, or in hardship situations, as determined by the Board, and may permit the temporary staging of scaffolding and other work required for installation or maintenance and repair of hurricane shutters or other hurricane protection.

The Association may, but shall not be obligated to, act as the Owner's agent in obtaining the services of contractors or others to perform Unit Owner maintenance responsibilities in the event of an emergency, or in non-emergency situations, provided that in non-emergency situations, the Association and the Owner so agree, or absent such agreement when such work is deemed necessary, as determined by the Board, to facilitate projects involving the Association's maintenance of the Condominium Property. In all such cases the Unit Owner shall be deemed to consent to reimbursement of expenses incurred, secured by such rights as exist for collecting Common Expenses under these Condominium Documents through a Lien for Charges. Unit Owners shall at all times be responsible to ensure, whether or not Association approval is required for work being done within the Unit, that all contractors and other persons performing services for the Unit Owner are properly licensed and insured, including required Worker's Compensation insurance, and that the Condominium Property is kept free from liens and cause no damage to the Condominium Property. The Unit Owner shall hold the Association harmless from any claim of any nature arising out of failure to comply with these requirements.

9.6 Lanais. The Unit Owner who owns or has the right to the exclusive use of a lanai shall be responsible for the maintenance, repair and replacement of: floor coverings (the Board may prohibit certain types of floor coverings or require the removal of existing coverings when

necessary for the structural preservation of the Building); storm shutters and other enclosures; fixed and/or sliding glass doors and affiliated framing and hardware thereof; the wiring, electrical outlet(s) and fixture(s) on or servicing the lanai; ceiling fans; and the replacement of light bulbs. The Association shall be responsible for structural maintenance, repair and replacement of lanai floors, ceilings, and also the Building walls enclosed by the lanais, excluding painting. The Unit Owner shall be responsible for the day-to-day cleaning and painting walls and ceiling enclosed by lanais. No Unit Owner shall paint lanai walls or ceilings without prior approval of the Board. Lanais must be painted in the same color as the Building, or the Board may specify a palette of color choices that can be used for lanais (and in the absence of same, same color as the Building). The Board may require Owners to paint lanais for maintenance/waterproofing purposes and may specify the type, color and specifications for the paint or other waterproofing materials to be used. Unit Owners may not puncture (by nails, hooks, screws or otherwise) lanai floors, walls, or ceilings, without obtaining the prior written approval of the Board of Directors.

9.7 Unit Floor Coverings. All Units must have anti-fracture membrane installed beneath any hard-surface flooring. The structural integrity of lanais constructed of steel reinforced concrete is affected adversely by water intrusion and rust aggravated by the water retention qualities of indoor-outdoor carpet, river rock, and unglazed ceramic tile and its grout. For this reason, no indoor-outdoor carpet or river rock may be used on lanais, and all tile and its bedding and grout must be of adequate material to be applied as to be waterproof. Any flooring installed by a Unit Owner on a lanai of a Unit must be installed so as to ensure proper drainage.

9.8 Modifications, Alterations or Structural Work by Unit Owners. No Owner may make or permit the making of any modifications or alterations to any portion of his Unit visible from the exterior of his Unit, or in any manner change the appearance of any portion of the Common Elements, undertake any structural work, or undertake any structural modification or alteration, 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. "Structural" work, modifications or alterations include, but are not limited to: relocation of existing electrical, plumbing, ductwork, air conditioning or heating installations; relocation of existing fixtures or appliances such as toilets, sinks, tubs, showers, dishwashers, refrigerators, or ranges; the removal or modification of any partition, door, window or screen; raising ceilings; or relocating kitchen or bathroom cabinetry. For purposes of this provision, the term "structural" work shall also include the addition, removal, or relocation of any duct work, plumbing line or fixture, any electrical line or fixture, or the removal, modification or creation of any interior partition. Replacement of cabinetry, appliances and fixtures, with substantially equivalent installations, in the same location, shall not be deemed "structural" and shall not require approval of the Association, unless a building or other permit is required. Further, "structural" work, modifications or alterations shall include any and all work that requires a building permit, an electrical permit, a plumbing permit, a mechanical permit, or similar permit from the appropriate governmental agency, whether or not mentioned above.

The Board may, in circumstances it deems appropriate, require sealed plans from an Architect or Professional Engineer licensed to practice in Florida as a condition of reviewing any requested structural 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 Southmont Cove Condominiums, 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 any Unit Owner requests approval of any structural work, modification or alteration, the Association may permit such work, modification or alteration if same would not materially affect or interfere with the utility services constituting Common Elements, if any, located therein, the structural integrity of the Building, or create a nuisance or disturbance to neighboring Units.

9.9 Additional Unit Owner Responsibility for Modifications or Alterations. If a Unit Owner (or his predecessors in title) makes, or has made any modifications or alterations to the interior or exterior of the Unit, Common Elements, or Limited Common Elements, the Unit Owner (and his heirs, successors in title and assigns) shall be financially responsible for the insurance, maintenance, care, preservation, reconstruction, repair or replacement of the modification or alteration and shall execute such documents as the Association may promulgate, if any, accepting said financial responsibility. Any modification or alteration to the Condominium Property made by a Unit Owner may be required to be removed in connection with the Association's maintenance of the Condominium Property. In such cases, the Unit Owner who installed the modification or alteration (and/or 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 for Charges of equal dignity to the Common Expense lien created by this Declaration, or alternatively, said Owner may be required to remove and reinstall said modification or alteration, 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, although the Association may provide for stricter liability standards in contracts with contractors.

9.10 Material Alterations by Association. There shall be no material alterations or substantial additions to the Common Elements or Association real property by the Association, except as authorized by the Board of Directors. Provided, however, that if any such alteration or addition to Association Property requires or obligates the expenditure of Association funds of more than ten percent (10%) of the Association's total budget for the fiscal year in which the work is authorized, including reserves, the Board shall obtain approval of a majority of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is present, or by written agreement of majority of the entire Voting Interests of the Association. Material alterations or substantial additions to the Common Elements of individual Condominiums shall be authorized as follows. The Board of Directors may authorize any alteration or addition which does not exceed ten percent (10%) of the total budget for the Condominium for which the alteration or addition is proposed. Any material alteration of or substantial addition to Common Elements of a Condominium exceeding that amount shall be approved by a majority of the Voting Interests of the Condominium present (in person or by proxy) and voting at a meeting of the Association at which a Class Quorum has been obtained. Notwithstanding the foregoing, if any alteration or addition to Common Elements of an individual Condominium (excepting those which are less than ten percent (10%) of the Budget and which may be authorized by the Board and including any change to the exterior color scheme of any Building) are visible from the exterior from the premises of any

other Condominium, such alterations or additions shall be approved by a majority of the Voting Interests of the Association present (in person or by proxy) and voting at a meeting of the Association at which a quorum has been established, or by written agreement of a majority of the entire Voting Interests of the Association, even in classes where the expenses of such alteration or addition is allocated as a Common Expense of the Condominium. Necessary maintenance of the Common Elements, or Association Property regardless of the level of expenditure, is the responsibility of the Board of Directors. Cellular antennae and similar apparatus and apparatus to provide communication or internet services as provided in Article 1.13, may be placed on the Condominium Property as authorized by the Board.

9.11 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 by this Declaration, or as may be required to comply with law, the Association shall have, without waiver of other remedies, the right to enter the Owner's Unit or Common Element (including Limited Common Elements) 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.

9.12 Damage Caused by Conditions of the Condominium Property. 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 intentional act or negligence, or by that of any member of his Family or his or their Occupants, Residents, Guests, Tenants or Invitees. If any condition, defect or malfunction existing within a Unit or Common Elements which the Unit Owner is obligated to insure, maintain, repair, or replace is caused by the Owner's (or his Family member's, Resident's, Occupant's, Guest's, Tenant's or Invitee's) act, negligence, or failure to comply with the Condominium Documents or applicable law, shall cause damage to the Common Elements, Association Property, 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) and without waiver of any insurer's subrogation rights, and without impairing any coverage obligation which may exist as a matter of law or contract, provided that such responsibility shall be conditioned on the Unit(s) which is/are seeking to impose such liability being adequately insured based on local standards and conditions. Further, any claim of a Unit Owner against the Association or another Unit Owner relative to damage to the Condominium Property, to the extent the Association or other Unit Owner might otherwise be liable pursuant to the Condominium Documents or applicable law, shall be predicated upon the Unit Owner making the claim being adequately insured based on local standards and conditions, whether or not individual Unit Owner insurance is mandated by the Act. Should any Unit Owner fail to maintain such insurance, any claim will be reduced to the extent such Unit Owner's insurance, if obtained pursuant to the above-described standards, would have provided coverage or compensation for the loss and without waiving any other remedy of the Association regarding Unit Owner insurance requirements. The requirement that the individual Unit Owner obtain insurance shall not be construed to confer any additional liability or responsibility on the Association or other Unit Owners (without limitation, the Association shall not be obligated to obtain proof of Unit Owner insurance), but is intended to require Unit Owners and the

Association to respectively insure risks that are customarily experienced in condominiums located in Florida's coastal communities, condominiums in general, including but not limited to damages occasioned by windstorms, hurricanes, tornadoes, floods, rainstorms, bursting pipes, water seepage and leakage, and mold and mildew, regardless of whether such insurance is legally required. If one or more of the Units involved is not occupied at the time a damage incident is discovered (regardless of the cause), the Association may, but is not obligated to, enter the Unit(s) without prior notice to the Owner(s) and take reasonable action to mitigate damage or prevent its spread, including without limitation initiating "dry-out" procedures, 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. Unit Owners are required to shut off all water valves when the Unit will be unoccupied on an overnight basis, and failure to do so will create a presumption of negligence.

Unit Owners are also required to ensure that electricity, and if separately metered, water and sewer, are always available to service the Unit. If Unit Owner fails to maintain Utility Services to the Unit, the Association shall have, without waiver of other remedies, the right to enter the Owner's Unit and Limited Common Element and take any and all lawful actions to make the utilities available to service the Unit; in which event, the Unit Owner shall be charged for such activities (including attorneys' fees incurred by the Association) by the Association which shall be secured by a Lien for Charges.

9.13 Combination of Units. Contiguous Units may not be combined in to a single living space.

9.14 Hurricane Protection. The Board of Directors shall adopt hurricane shutter specifications for the Condominium which shall include color, style, and other factors deemed relevant by the Board. All specifications adopted by the Board shall comply with the applicable building code.

The Board may, subject to the provisions of Section 718.3026 of the Act, and the approval of Voting Interests as may be required by the Act, install hurricane shutters or other forms of hurricane protection that complies with or exceeds the applicable building code, or both. Credits shall be given as provided in the Act.

10. ASSESSMENTS AND CHARGES. Assessments against Owners shall be made by the Board of Directors of the Association, in the manner provided in the Bylaws and as follows, and shall be borne by the Unit Owners on the basis set forth in Article 6 and elsewhere in these Condominium Documents.

10.1 Liability for Assessments and Charges. A Unit Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments and Charges coming due while he/she is the Unit Owner. Except as provided in Article 10.5, any person or entity which acquires title to a Unit shall be jointly and severally liable with their predecessor in title for all unpaid Assessments and Charges against the predecessor for his/her share of the Charges and Assessments, including interest, late fees, attorney's fees and other costs and expenses of collection incurred by the Association up to the time of the transfer,

without prejudice to any right the transferee may have to recover from the transferor the amounts paid by the transferee. The liability for Assessments or Charges may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the Unit for which the Assessments or Charges are made.

10.2 Default in Payment of Assessments for Common Expenses or Charges.

Assessments and installments thereof not paid within ten (10) days from the date when they are due shall incur a late fee and bear interest in an amount as determined by the Board of Directors which, unless otherwise specified, shall be the maximum allowed by law. The Board may accelerate unpaid Assessments in the manner prescribed by law. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such parcel, with interest, late fees and for reasonable attorney's fees, as well as costs and expenses of collection incurred by the Association incident to the collection of the Assessment or enforcement of the lien. If prohibited by the Act, no lien may be filed by the Association against a Condominium Unit until thirty (30) days after the date on which a notice of intent to file a lien has been delivered to the Owner pursuant to Section 718.121(4) of the Act. The Association may also accelerate all Assessments or Charges which are accrued, but not yet due, in the manner provided by law. The Association's lien is in effect until all sums secured by it have been fully paid or until barred by law. A claim of lien shall be signed and acknowledged by an Officer or agent of the Association. Upon recording, the Association's claim of lien shall relate back to the date of the filing of the original Declaration of Condominium. Upon payment in full, the Condominium Parcel is entitled to a satisfaction of the lien. The Association may bring an action in its name to foreclose a lien for Assessments or Charges in the manner that a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid Assessments or Charges without waiving any claim of lien.

10.3 Notice of Intention to Foreclose Lien. So long as required by law, no foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments or Charges. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid Assessments or Charges, including those which have been accelerated (if applicable) and those coming due after the claim of lien is recorded, are paid before the entry of a final judgment or foreclosure, the Association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the Unit Owner or by certified mail, return receipt requested, addressed to the Unit Owner. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this provision are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.

10.4 Attachment of Rental Income When Unit is Delinquent. 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 until all outstanding Assessments, Charges, other monetary obligations, interest, late fees, costs, collection expenses, attorney's fees and receiver's fees, if

applicable, are paid in full. 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. The Association may choose any of these courses of action, or other remedies as may be prescribed by law or elsewhere in the Condominium Documents, as the Board deems appropriate, without same constituting a waiver or election of remedies.

10.5 First Mortgagee. The priority of the Association's lien and the obligation for payment of past due Assessments or other sums due in relation to first mortgagees who obtain title as a result of foreclosure or deed in lieu of foreclosure, shall be determined by the Act.

10.6 Certificate of Unpaid Assessments or Charges. Any Unit Owner has the right to require from the Association a certificate showing the amount of unpaid Assessments or Charges against him/her with respect to his/her Unit. The Association, its agents, and counsel shall be entitled to charge a fee for preparing such information, in amounts established by the Board, or in a management agreement between the Association and a Community Association Management Firm, or based on reasonable and customary fees charged by legal counsel.

10.7 Lien for Charges. There is created by this Declaration a common law and contractual lien to secure payment for any service which the Association provides for an individual Unit Owner or expenses which the Association incurs in regard to a Unit Owner and which is not otherwise secured by the statutory lien for Common Expenses. 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 insurance, maintenance, repair or replacement 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 accrue interest and late fees, and shall be foreclosed in the same manner as the Common Expense lien, including the right to recover attorney's fees, costs and expenses of collection.

10.8 Other Remedies. The Board of Directors shall have the authority to impose such other remedies or sanctions permitted by the Act pertaining to non-payment of monetary obligations to the Association. Without limitation, same include suspension of use rights in Common Elements and Association Property; suspension of voting rights; suspension of the right to serve on the Board; the attachment of rental income; denial of lease approval requests; and acceleration.

11. ADMINISTRATION AND MANAGEMENT OF CONDOMINIUM. The administration and management of the Condominium shall be by the Association, which shall have by and through its Officers and Directors, such powers, authority and responsibilities as are vested in the Officers and Directors of a corporation not-for-profit under the laws of the State of Florida, including but not limited to those set forth more specifically elsewhere in the Condominium Documents. The Association shall have authority to enter into management and other agreements concerning the matters of common interest through its Officers. The management of the Association and election of the Members to the Board of Directors shall be as set forth in the

Bylaws. Without limiting the foregoing, the Association shall have the following rights and powers:

11.1 Access. The irrevocable right of access to each Unit and its appurtenant Limited Common Elements during reasonable hours as may be necessary for the maintenance, repair or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to this Declaration, or as necessary to prevent damage to the Common Elements or to any Unit or Units, or to determine compliance with the terms and provisions of this Declaration, the exhibits annexed hereto, and the Rules and Regulations adopted pursuant to such documents, as the same may be amended from time to time. A pass key must be provided by the Unit Owner to the Association for each Unit entry door, and as may be applicable air conditioning or utility rooms or closets, and the assigned Storage Closet. The Association may utilize a master key system. When a Unit Owner must maintain, repair or replace portions of the Condominium Property as provided herein, and which requires access to another Unit for said purpose, the Unit Owner shall have reasonable right of access which shall be administered through the Association. The Unit Owner upon whose behalf access has been obtained shall be obligated for the expense of repairing any damage to the Condominium Property.

11.2 Assessments and Charges. The power to make and collect regular and special Assessments and other Charges against Unit Owners and to lease, maintain, repair, and replace the Common Elements and Association Property.

11.3 Delegation. The power to enter into contracts with others, for valuable consideration, for maintenance and management of the Condominium Property and Association Property and in connection therewith, or to its Officers and agents, to delegate the powers and rights herein contained, including, without limitation, the making and collecting of Assessments and other Charges against Unit Owners, and perfecting liens for non-payment thereof.

11.4 Regulations. The power to adopt and amend Rules and Regulations covering the details of the operation of the Association and use, appearance, maintenance, transfer and administration of the Condominium Property and Association Property.

11.5 Acquisition or Transfer of Real or Personal Property; Leasing Common Elements and Association Property. The power to acquire real property and transfer real property owned by the Association or otherwise convey and mortgage real property for the use and benefit of its Members with the same approval of Unit Owners as needed to amend the Declaration. No Unit Owner approval shall be required to acquire, purchase, or mortgage a Unit in connection with foreclosure of a lien or deed in lieu of foreclosure, nor to dispose of such Unit. No Unit Owner approval shall be required in connection with the Association's right of first refusal set forth in Article 17 hereof. Leasing of Units, Common Elements or Association Property may be approved by the Board of Directors, as well as the lease fees, use fees, and other fees permitted by the Act or the Condominium Documents. The Board of Directors shall have the authority to acquire personal property and to dispose of same, without need for membership approval.

11.6 Membership Agreements. The power to enter into agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as

country clubs, golf courses, marinas, and other recreational facilities with the same approval of Unit Owners as needed to amend the Declaration.

11.7 Fees for Use of Common Elements; Other Fees and Deposits. The power to set fees, pursuant to Section 718.111(4) of the Act, 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.

11.8 Lease of Association Property or Common Elements. The power to lease Association Property or Common Elements, as authorized by the Board of Directors, including, but not limited to, the lease of Building roof areas and other Common Elements for antennas or other telecommunications and similar equipment. No use fee may be charged against a Unit Owner for use of the Common Elements or Association Property except fees set by the Board pertaining to an Owner having exclusive use of the Common Elements or Association Property, or as agreed by the Association and the party leasing Association Property or Common Elements, pursuant to an oral or written Lease agreement, or fees authorized by this Declaration.

11.9 Limitation Upon Liability of Association. Notwithstanding the duty to maintain, repair, replace, insure or reconstruct parts of the Condominium Property, the Association is not liable to Unit Owners or any other person for injury or damage, other than for the cost of maintenance and repair of items for which the Association is otherwise responsible, caused by any latent or unknown 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 of whether or not same shall have been approved by the Association pursuant to the provisions hereof.

Notwithstanding anything contained herein 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, Tenants, Invitees or for any property of any such persons. Without limiting the generality of the foregoing:

11.9.1 It is the express intent of the Condominium Documents that the various provisions thereof which are enforceable by the Association, and which govern or regulate the 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

11.9.2 The Association is not empowered, and has not been created, to act as an entity which enforces or ensures the compliance with the laws of the United States, State of Florida, Lee County, and/or any other jurisdiction or for the prevention of tortious or criminal activities; and

11.9.3 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 Assessment funds are chosen to be used for any such reason.

Each Unit Owner and each other person having an interest in or lien upon, or making any use of, any portion of the Condominium Property 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.

As used in this section, "Association" shall include within its meaning all of the Association's Directors, Officers, Committee Members and other persons the Association may be required to indemnify, to the extent and limit of such indemnity, and without waiving, reducing or otherwise modifying coverage obligations or subrogation rights of any insurer.

11.10 Disclaimer, Waiver, and Release of Claims Regarding Mold and Mildew.

Each Unit Owner acknowledges that the Condominium is located in a hot, humid climate, which is conducive to the growth of mold and/or mildew. The Board of Directors shall have the authority, but not the obligation, to adopt reasonable Rules and Regulations regarding maximum and/or minimum temperature ranges for Units and/or require that the air conditioning to the Units be set within certain temperature and/or humidity ranges and may require Owners to take such further actions as the Board deems advisable to control humidity and mold and/or mildew growth.

The Association shall not be responsible for the prevention of mold and/or mildew or any damages, including, but not limited to any special or consequential damages, property damages, personal injury, loss of income, emotional distress, death, loss of use, loss of income diminution or loss of value of the Unit, economic damages, and adverse health effects relating to, arising from or caused by mold and/or mildew accumulation regardless of the cause of said mold/or mildew.

EACH UNIT OWNER AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE CONDOMINIUM PROPERTY SHALL BE BOUND BY THIS PROVISION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL CLAIMS, OBLIGATIONS, DEMANDS, DAMAGES, CAUSES OF ACTION, LIABILITIES LOSSES AND EXPENSES, WHETHER NOW KNOWN OR HEREAFTER KNOWN, FORESEEN OR UNFORESEEN, THAT SUCH PERSON HAS, OR MAY HAVE IN THE FUTURE, IN LAW OR IN EQUITY AGAINST THE ASSOCIATION, ITS OFFICERS, DIRECTORS, AND COMMITTEE MEMBERS, OR ANY PERSON OR ENTITY THE ASSOCIATION IS OBLIGATED TO INDEMNIFY (AND WITHOUT WAIVING, REDUCING OR OTHERWISE MODIFYING COVERAGE OBLIGATIONS OR SUBROGATION RIGHTS OF ANY INSURER) ARISING OUT OF, RELATING TO, OR IN ANY WAY CONNECTED WITH INDOOR AIR QUALITY, MOISTURE, OR THE GROWTH, RELEASE, DISCHARGE, DISPERSAL OR PRESENCE OF MOLD AND/OR MILDEW OR ANY CHEMICAL OR TOXIN SECRETED THEREFROM.

11.11 Restraint Upon Assignment of Shares in Assets. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his/her Unit.

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 the Unit Owners and their mortgagees as their respective interests may appear.

12.2 Coverage.

12.2.1 Property Insurance. Except as otherwise provided herein, the Association shall obtain and maintain fire, wind, general property 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 (including Limited Common Elements), the Units, and the personal property of the Association, for the replacement value thereof, including coverage for changes in building codes, unless the Board determines that such coverage for changes in building codes is not reasonably available or commercially practicable, 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 determine the replacement value of the Insurable Improvements through independent appraisal, at least every 36 months, so long as required by the Act. The Board shall establish deductibles, at a duly noticed meeting of the Board, and shall give notice of such meeting, and determine the deductibles, 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 property insurance 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 lanai 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 Flood. The Association shall use its best efforts to obtain and maintain adequate flood insurance, for replacement value, less a commercially reasonable deductible as determined by the Board, and less foundation and excavation costs if determined by the Board. The Association will have discharged its responsibility to use its "best efforts" to obtain

“adequate” flood insurance if it is able to purchase flood insurance through the National Flood Insurance Program (NFIP), or through any similar federally-sponsored or related program, or through private carriers with similar coverage, for premium rates that are generally commensurate with flood insurance premium rates for condominiums in the local area.

12.2.3 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.

12.2.4 Fidelity Bond. The Association shall obtain and maintain insurance or fidelity bonding of all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this paragraph, the term “persons who control or disburse funds of the association” includes, but is not limited to, those individuals authorized to sign checks on behalf of the Association, and the President, Secretary, and Treasurer of the Association.

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

12.2.6 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 (including but not limited to exclusions), as it deems desirable and financially expedient, in the exercise of its business judgment, and in the method provided by the Act. The deductible and other features 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.

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 in the manner elsewhere stated.

12.5.2.2 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 or covered cause of loss under the Association's applicable insurance policy, but insufficient proceeds for Casualty or covered cause of loss 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 or covered cause of loss under the Association's applicable insurance policy 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 that 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 interests 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 19.

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 or covered cause of loss under the Association's applicable insurance policy, whether or 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 or covered cause of loss under the Association's applicable insurance policy, provided however that the Board of Directors shall have the authority to extend this period for decision-making, not to exceed three (3) 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 9.8 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 or covered cause of loss under the Association's applicable insurance policy 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 or covered cause of loss under the Association's applicable insurance policy for damaged items that the Association insures 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 Administration. 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 9.9, 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 Estimates 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. The cost of reconstruction after Casualty for those portions of the Condominium Property required to be insured by the Association shall be considered a Common Expense, pursuant to Section 718.111(11)(j) of the Act. However, any cost of repair, reconstruction or replacement of portions of the Condominium Property that is not caused by a Casualty or covered cause of loss under the Association's applicable insurance policy, as determined by the Board of Directors, shall be repaired, and said costs allocated pursuant to the general maintenance, repair, and replacement provisions of this Declaration.

13.6 Damage Caused By Wear and Tear of the Condominium Property. Damage to the Condominium Property that is not caused by a Casualty as defined in Article 1.9 or covered cause of loss under the Association's applicable insurance policy, shall be repaired or replaced in accordance with the provisions of Article 9 and shall not be subject to this Article 13.

13.7 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 19 hereof.

13.8 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:

13.8.1 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.

13.8.2 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.

13.8.3 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.

13.8.4 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 ten (10) 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.

13.8.5 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.

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

13.8.7 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.

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

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

14. **USE RESTRICTIONS.** Use of the property submitted for condominium ownership shall be in accordance with the following use restrictions and reservations:

14.1 Occupancy of Units; Single Family Residence. A Condominium Unit shall be used only as a Single Family residence. As used in the Condominium Documents, "Single Family" means one natural person, a group of two or more natural persons who customarily reside together as a Single Family housekeeping Unit, each of whom is related to each of the others by blood, marriage (or domestic partnership) or adoption, or not more than two persons not so related, who customarily reside together as a single housekeeping Unit. No more than six (6) persons may reside in a Unit. No more than eight (8) persons (including Unit Owners, Tenants, Residents, their Families, Guests or any other Occupants) may sleep overnight in a Unit. For purposes of these Condominium Documents, reside means to sleep in the Unit for more than thirty (30) nights during a calendar year. No Unit may be divided or subdivided into a smaller Unit nor any portion sold or otherwise transferred. No person may reside in a Unit as a Unit Owner, Resident, or Family member or for any reason occupy the Unit on an overnight basis for more than thirty (30) days in a calendar year unless said person's occupancy has been specifically approved by the Association, through the Board of Directors. In considering such requests, the Board may consider factors set forth in Article 17 hereof, and may charge a reasonable fee for review of residency requests. Visitation by Guests is further governed by Article 15 of this Declaration. Occupancy by Tenants is further governed by Article 16 of this Declaration. Units may not be used for commercial or business purposes. Unit Owners and Occupants may use Units for "home office" or "telecommuting" purposes, provided that such uses do not involve customers or clients coming onto the Condominium Property, the posting of any signage in the Condominium, the storage of equipment, products, or materials in the Condominium, nor more than two regular deliveries per day of correspondence or similar items from customary express delivery services.

14.2 Nuisance. No nuisance (as reasonably determined by the Association) shall be allowed on the Condominium Property, nor shall any use or practice be allowed which is a source of annoyance to Residents or Occupants of Units or which interferes with the peaceful possession or proper use of the Condominium Property by its Residents or Occupants. No activity specifically permitted by this Declaration shall be deemed a nuisance.

14.3 Pets. Each Unit Owner or Occupant (regardless of the number of joint Owners or Occupants) may maintain not more than two (2) domestic pets. No pet shall be kept, bred or maintained for any commercial purpose, shall not become a nuisance or annoyance to neighbors and shall first be registered with the Association. No reptiles, "exotic pets" or wildlife shall be kept in or on the Condominium Property (including Units). Unit Owners must pick-up all solid wastes of their pets and dispose of such wastes appropriately. All pets (including cats) must be kept on a leash no more than six (6) feet in length at all times when outside the Unit and shall not be permitted on outdoor recreations areas (e.g., pool decks). No pets may be kept on lanais when the Owner is not in the Unit. Without limiting the generality of Article 21 hereof, a violation of the provisions of this paragraph shall entitle the Association to all of its rights and remedies, including, but not limited to, the right to fine Unit Owners (as provided in any applicable Rules and Regulations) and/or to require any pet to be permanently removed from the Condominium

Property. This Article shall not prohibit the keeping of fish or caged household-type bird(s) in a Unit, provided that a bird(s) is not kept on Limited Common Elements and does not become a nuisance or annoyance to neighbors.

14.4 Alterations. Without limiting the generality of Article 9 hereof, but subject to the proviso contained therein as to hurricane shutters, no Unit Owner shall cause or allow improvements or changes to any Unit, Limited Common Elements appurtenant thereto or Common Elements, including, but not limited to, painting or other decorating of any nature (other than to the interior of the Unit), installing any electrical wiring, television antenna, machinery, or air-conditioning units or in any manner changing the appearance of any portion of the Building, without obtaining the prior written consent of the Association (in the manner provided in Article 9 hereof).

14.5 No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or Bylaws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Article. No activity specifically permitted by this Declaration shall be deemed a violation of this Article.

14.6 Hurricane Protection. No type of hurricane protection may be installed in or around the Units other than hurricane shutters meeting the specifications (including as to location) adopted by the Board of Directors as required by the Act.

14.7 Exterior Improvements; Landscaping. Without limited the generality of Article 9 or Article 14.4 hereof, but subject to any provision of this Declaration specifically permitting same, no Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, lanais, or windows of the Buildings (including, but not limited to, awnings, signs, storm shutters, screens, window tinting, furniture, fixtures and equipment), nor to plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life outside his Unit, without the prior written consent of the Association.

14.8 Commercial/Recreational Vehicle and Trailers. Except as permitted below, no trucks, commercial vehicles, campers, mobile homes, recreational vehicles, motorcycles or boat or other trailers shall be kept on the Condominium Property. For purposes of the foregoing, "commercial vehicles" shall mean those not designed or used for customary personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether the same is a commercial vehicle. The foregoing shall not prohibit, however, (i) the parking of otherwise prohibited vehicles on the Condominium Property in the course of providing services to the Condominium Property, the Occupants thereof or the Association, (ii) unmarked pick-up trucks of less than a three-quarter (3/4) ton capacity or (iii) vans with windows which contain seating for at least four (4) persons, provided that such vans and trucks shall not bear commercial-type lettering or graphics. All vehicles kept on the

Condominium Property shall be operational and in good condition. In the event of doubt or dispute as to whether a vehicle is prohibited by this Article, the good-faith determination of the Board of Directors shall be binding and conclusive.

All persons are hereby advised to consult with the Association and the Community Association (which may have its own vehicle restrictions) prior to bringing any vehicle upon the Condominium Property.

14.9 Relief by Association. The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in this Article 14 for good cause shown.

14.10 Changes in Permitted Uses. No amendments to this Article 14, any other provision of this Declaration governing the use of Units or the Common Elements or to any Rules and Regulations of the Association shall operate to prohibit the keeping of a pet, parking of a vehicle or leasing or occupancy of a Unit where the same was (i) permitted prior to the effectiveness of the amendment, (ii) being conducted in reliance on such permissibility and (iii) is continuing with the same pet, vehicle, lessee or Occupant as existed prior to the effectiveness of the amendment. Likewise, no improvement made to or about any Unit (e.g., the installation of hurricane shutters) which was permitted at the time of its making shall be required to be removed by virtue of a change in the permissibility of such types of improvements.

14.11 Additional Restrictions. Additional use restrictions are contained in the Rules and Regulations, which may be amended from time to time by the Board of Directors. Amendments to the Rules and Regulations may, but need not be recorded in the Public Records. Additional use restrictions are also contained elsewhere in the Condominium Documents.

15. GUEST OCCUPANCY. A "Guest" is defined as a person who enters upon the Condominium Property at the invitation of a Unit Owner or Tenant, (or their respective families) for the purpose of visiting the Unit Owner or Tenant (or their respective families), occupying the Condominium Unit for less than thirty (30) days during any calendar year, or utilizing the Condominium Property. Use or visitation without consideration (payment) distinguishes a Guest usage from a tenancy. Any person occupying a Unit for more than thirty (30) days in a calendar year regardless of whether any consideration is paid, shall not be considered a Guest, and may be considered a Resident or Tenant, as and if deemed appropriate by the Board. There are various types of Guest uses, which are regulated as follows:

15.1 Non-Overnight Visitation by Guests When Unit Owner or Tenant is in Residence. There is no restriction against day visits by Guests, 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 or prohibit Guest visitation by convicted felons, including but not limited to registered sex offenders and persons who have been convicted of narcotic offenses. Non-overnight Guests need not be registered with the Association, but may be subject to access control protocols or procedures used generally, if any. Non-overnight Guests shall be entitled to use the Condominium facilities only when accompanied by the Unit Owner or Tenant (or an adult, resident Member of the Unit Owner's or Tenant's Family), unless otherwise approved by the Board of Directors. The Board may

establish additional restrictions on non-overnight Guest usage of Condominium facilities, including but not limited to the maximum numbers of Guests who may use common facilities.

15.2 Overnight Guests When Unit Owner or Tenant is in Residence. Unit Owners and Tenants (and their respective Families) 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 when the Unit Owner or Tenant is simultaneously occupying the Unit. 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. No more than eight (8) persons (including the Unit Owners, Tenants, Residents, their Families, Guests or any other Occupants) may sleep overnight in a Unit.

15.3 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 Units inspected by caretakers, friends or relatives. However, such individuals shall not be permitted to use Condominium facilities, such as recreational facilities (including but not limited to the pool, parking areas, and beach access).

15.4 Overnight Guests in the Absence of the Unit Owner or Tenant. Tenants are not permitted to have overnight Guests (related or non-related) in the absence of the Tenants' simultaneous residence. 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.

15.4.1 Non-Related Overnight Guests in the absence of the Unit Owner will be limited to two (2) occupancies per calendar year with a maximum stay of seven (7) days per occupancy. The limitation on Unit density in Article 15.2 applies. Ten (10) days prior notice to the Association is required.

15.4.2 Related Overnight Guests may occupy a Unit in the absence of the Unit Owner. For the purpose of this provision, "related" means at least one adult who is occupying the Unit on an overnight basis, in the absence of the Unit Owner, is 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 Article 15.2 applies. Ten (10) days prior notice to the Association is required.

15.5 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, or other proof that the leasing provisions of Article 16 are not being violated.

16. LEASING. The lease of a Unit is defined as occupancy of the Unit by any person other than the Unit Owner, whether pursuant to verbal or written agreement, where said occupancy by the non-owner involves consideration (the payment of money, the exchange of goods or services, or any other exchange of value). The term “leasing” and “renting” shall be used interchangeably for the purpose of this Declaration. The term “Tenant” and “Lessee” shall likewise be used interchangeably. All leases must be in writing. Should a Unit Owner lease his Unit, he shall, if so requested by the Association or as may be required by Rule of the Board, furnish the Association with a copy of the lease, the name of the Lessee, the names of all Residents and such other information as the Association may reasonably require. Any person occupying the Unit as a Resident after initial registration shall be subject to a separate registration process. No individual rooms may be rented and no transient tenants may be accommodated. “Rent-sharing” and subleasing are prohibited. All leases shall be for a minimum period of thirty (30) days.

16.1 Tenant Conduct; Remedies. All leases are deemed to provide that the Tenants have read and agreed to be bound by this Declaration, Articles of Incorporation, Bylaws, and Rules and Regulations as the same may be amended from time to time (the “Condominium Documents”). Any violation of the Condominium Documents shall constitute a material breach of the lease and subject the Tenant to eviction as well as any other remedy afforded by the Condominium Documents or Florida law. If a Tenant, Resident, other Unit Occupant, Guest or Invitee fails to abide by the Condominium Documents, the Unit Owner(s) shall be responsible for the conduct of the Tenants, Residents, Occupants, Guests and Invitees and shall be subject to all remedies set forth in the Condominium Documents and Florida law, without waiver of any remedy available to the Association as to the Tenant. The Unit Owner shall have the duty to bring his Tenant’s conduct (and that of the other Unit Residents, Occupants, Guests and Invitees) into compliance with the Condominium Documents by whatever action is necessary, including without limitation the institution of eviction proceedings without notice to cure, where legally permissible. If the Unit Owner fails to bring the conduct of the Tenant into compliance with the Condominium Documents in a manner deemed acceptable by the Association, or in other circumstances as may be determined by the Board, the Association shall have the authority to act as agent of the Unit Owner to undertake whatever action is necessary to abate the Tenants’ noncompliance with the Condominium Documents (or the other noncompliance of other Residents, Occupants, Guests or Invitees), including without limitation the right to institute an action for eviction against the Tenant in the name of the Association in its own right, or as agent of the Unit Owner. 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 which shall be secured by a continuing lien in the same manner as assessments for Common Expenses, to wit, secured by a Lien for Charges. Any uniform lease or lease addendum will provide, and all leases will be deemed to provide that the Association shall have the authority to direct that all rental income related to the Unit be paid to the Association until all past due and current obligations of the Association have been paid in full, including but not limited to all past due Assessments, Charges, other monetary obligations, late fees, interest, attorneys’ fees and cost and expenses of collection.

16.2 Liability. The liability of the Unit Owner under the Condominium Documents shall continue notwithstanding the fact that he may have leased or rented his interest in the Unit as provided herein.

17. MAINTENANCE OF COMMUNITY INTERESTS. In order to maintain a community of congenial Unit Owners who are financially responsible, and thus protect the value of the Units, the use and transfer of Units by any Owner shall be subject to the following provisions as long as the Condominium exists upon the land, which provisions each Unit Owner covenants to observe:

17.1 Forms of Ownership:

17.1.1 Ownership by Individuals. A Unit may be owned by one natural person who has qualified and been approved as elsewhere provided herein.

17.1.2 Co-Ownership. Co-ownership of Units is permitted. If the co-owners are other than husband and wife or Domestic Partners, the Owner(s) must within ten (10) days of taking title designate one natural person as "Primary Occupant." Two persons may, in the discretion of the Board and upon request, be each designated as "Primary Occupants" so long as such persons are spouses or Domestic Partners. 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 a short-term or transient accommodations for several entities, individuals or families as a timeshare, a shared Unit, fractional ownership, or used as Guest accommodations for employees, customers, or Guests of Units owned by business entities, religious, or charitable organizations, and the like. The use of the Unit by other persons shall be as if the Primary Occupant was the only actual Owner. The Primary Occupant shall be the person entitled to vote on behalf of the Unit, and exercise rights of membership. No more than four (4) changes in Primary Occupant will be approved in any calendar year, except in connection with title transfers. No time share estates may be created. "Unit Sharing" by multiple families and "Fractional Ownership" are prohibited.

17.1.3 Ownership by Corporations, Partnerships, Limited Liability Companies, Trusts, or Other Artificial Entities. A Unit may be owned in trust, or by a corporation, partnership, limited liability company, or other entity which is not a natural person. 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 a short-term or transient accommodations for several entities, individuals or families as a timeshare, a shared Unit, fractional ownership, or used as Guest accommodations for employees, customers, or Guests of Units owned by business entities, religious, or charitable organizations, and the like. Partnerships, trusts, corporations, limited liability companies, or other artificial entity Owners must designate a Primary Occupant in the same matter as set forth in Article 17.1.2. No more than one change in designation of Primary Occupant will be approved in any twelve (12) month period.

17.1.4 Life Estate. A Unit may be subject to a life estate, either by operation of law or by a voluntary conveyance approved as provided below. In that event, the life tenant shall be the only Member from such Unit, and occupancy of the Unit shall be as if the life tenant were the only Owner. The life tenant shall be liable for all Assessments and Charges against the Unit. Any vote, consent, or approval required by the Condominium Documents or law may be given by the life tenant alone, and the vote, consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights and other rights and obligations.

17.2 A copy of the deed or other instrument of conveyance must be provided to the Association within ten (10) days of the date such instrument was recorded.

18. METHOD OF AMENDMENT OF DECLARATION. Except as elsewhere provided otherwise, this Declaration may be amended in the following manner:

18.1 Proposal of Amendments. An amendment may be proposed by the President of the Association, the Directors, or by twenty-five percent (25%) of the entire Voting Interests.

18.2 Proposed Amendment Format. Proposals to amend the existing Declaration of Condominium shall contain the full text of the article to be amended. New words shall be underlined and words to be deleted shall be ~~lined through~~ with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF DECLARATION OF CONDOMINIUM. SEE ARTICLE NUMBER FOR PRESENT TEXT."

18.3 Notice. The subject matter of proposed amendments shall be included in the notice of any meeting at which a proposed amendment is to be considered or in connection with documentation for action without a meeting.

18.4 Adoption of Amendments. A resolution for the adoption of a proposed amendment may be adopted by a vote of two-thirds ($2/3^{\text{rds}}$) of the Voting Interests in this Condominium present (in person or by proxy) and voting at a duly noticed meeting where at least one-third ($1/3^{\text{rd}}$) of the Voting Interests in this Condominium are represented (in person or by proxy) at such meeting, or by the written agreement of two-thirds ($2/3^{\text{rds}}$) of the entire Voting Interests in this Condominium. Amendments correcting errors, omissions or scrivener's errors may be executed by the Officers of the Association, upon Board approval, without need for Association membership vote.

18.5 Effective Date. An amendment when adopted shall become effective after being recorded in the Lee County Public Records according to law.

18.6 Automatic Amendment. Whenever the Act, Chapter 617, Florida Statutes, or other applicable statutes or administrative regulations, as amended from time to time, are amended to impose procedural requirements less stringent than set forth in this Declaration, the Board may operate the Association pursuant to the less stringent requirements without the need to change this Declaration. The Board of Directors without a vote of the Owners, may also adopt by majority vote, amendments to this Declaration as the Board deems necessary to comply with such operational changes as may be enacted by future amendments to Chapters 607, 617, and the Act, or such other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.

18.7 Proviso. No amendment shall change the configuration of any Unit or the share in the Common Elements appurtenant to it, or increase the Owner's proportionate share of the Common Expenses, unless the record Owner of the Unit concerned and all record Owners of the mortgages on such Unit shall join in the execution of the amendment, and all other Unit Owners approve the amendment.

19. TERMINATION.

19.1 The Condominium may be terminated under any one of the following alternatives:

19.1.1 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:

- 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
- 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) of the Act.

19.1.2 Optional Termination. Except as provided in Article 19.1.1, 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) of the Act.

19.1.3 Very Substantial Damage. If the Condominium suffers major damage as defined in Article 13, 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.

19.1.4 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 Section 718.117(16) of the Act.

19.2 Procedures for Termination and Sale. The termination of the Condominium via either of the methods set forth in 19.1.1 through 19.1.3 herein shall be as set forth in Section 718.117(4) – (20) of the Act.

19.3 Amendment. This Article 19 may be amended in the same manner in which this Declaration may be amended generally, as set forth in Article 18.

20. CONDEMNATION.

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

20.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be decided in the same manner as repair after Casualty as set forth in Article 13 hereof.

20.3 Distribution of Funds. If the Condominium is terminated after condemnation, the proceeds of all awards and special assessments will be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a Casualty. If the Condominium is not terminated after condemnation, the size of the Condominium may be reduced. The Owners of condemned Units, if any, will share in awards and special assessments as provided below.

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

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

20.5.1 Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be assessed against the Owner of the Unit.

20.5.2 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.

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

20.6 Units Not Habitable. If the taking of any entire Unit or so reduces the size of the Unit 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:

20.6.1 Payment of Award. The condemnation award immediately prior to the taking shall be paid to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and mortgagee(s).

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

20.6.3 Assessments. If the amount of the award for the taking is not sufficient to pay the fair market value of the condemned Unit to the Unit Owner and to recondition the remaining portion of the Unit, the amount required for those purposes shall be raised by special assessment against all of the Unit Owners who will continue as Owners of any Unit after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the shares of those Owners in the Common Expenses after the changes effected by the taking.

20.7 Taking of Common Elements. Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in the manner approved by the Board of Directors. The balance of such awards, if any, may be returned to the Unit Owners or used by the Association as the Board may determine.

20.8 Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements that are necessitated by condemnation shall be evidenced by an amendment of the Declaration of Condominium that need be approved only by a majority of all Directors of the Board.

21. COMPLIANCE AND DEFAULT.

21.1 Duty to Comply; Right to Sue. Each Unit Owner, his Family, Tenants, Guests, Invitees and all Unit Occupants and the Association shall be governed by and shall comply with the provisions of the Condominium Act and the Condominium Documents. 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:

21.1.1 The Association;

21.1.2 A Unit Owner; or

21.1.3 Anyone who occupies a Unit as a Unit Owner, Family member, Tenant, Occupant or Guest. Unit Owners shall be jointly and severally liable for violations of the Condominium Documents by their Family members, Tenants, Guests, Invitees and Unit Occupants.

21.2 Attorney's Fees. In any legal proceeding arising out of an alleged failure of a Unit Owner, Family member, Tenant, Guest, Invitee, Occupant 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 and expenses of the proceeding and a reasonable attorney's fee before trial, at trial and on appeal.

21.3 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.

21.4 Waiver of Application of Condominium Documents. The Association shall have the right to waive the application of one or more of the covenants or restrictions of the Condominium Documents, or to permit a deviation from said covenants or restrictions, as to any Unit where, in the discretion of the Board, hardship circumstances exist which justify such waiver or deviation. In the event of any such waiver or permitted deviation, or in the event the Association fails to enforce violation of said covenants or restrictions, such actions or inactions shall not be deemed to prohibit nor restrict the right of the Association, or any other person having the right to enforce said covenants or restrictions, from insisting upon strict compliance with respect to all other Units, nor shall any such actions be deemed a waiver of any of the covenants or restrictions contained in the Condominium Documents as same may be applied in the future.

21.5 Notice of Lien or Suit.

21.5.1 Notice of Lien. A Unit Owner shall give to the Association written notice of every lien upon his Unit other than for permitted first mortgages, taxes, and special assessments, within five (5) days after the Unit Owner receives actual notice of the attachment thereof.

21.5.2 Notice of Suit. A Unit Owner shall give notice, in writing, to the Association of every suit or other proceeding which may affect the title to his Unit, or impose liability on the Association, such notice to be given five (5) days after the Unit Owner receives actual knowledge thereof.

21.5.3 Failure to Comply. Failure of an Owner to comply with this Article 21.5 will not affect the validity of any judicial suit; however, the failure may render the Owner liable to any party injured by such failure.

22. THE COMMUNITY ASSOCIATION. Lexington Community Association, Inc. (same being defined herein as the "Community Association") has been created to administer the Community Covenants and, generally, to operate, administer, regulate the use of, and maintain and repair the "Common Areas" of all types under the Community Covenants. In addition to the Unit Owners, owners of other residential units (and possibly other parties) will be members of the Community Association and, as such, shall have the right of access to and use of the Common Areas. The following provisions have been included herein, and shall be interpreted

and enforced, in order to further the purposes of the Community Association and the Community Covenants:

22.1 Maintenance. The Community Association shall, per the Community Covenants, maintain the following portions of, or installations with, the Common Elements: grass and landscaping, pavement (including painting thereon), curbs and parking bumpers (if any), the common irrigation system, street lights and directional and identifying signage.

22.2 Assessments and Collections. Assessments levied by the Community Association shall be the responsibility of the Unit Owners individually and not Common Expenses hereunder. However, the Association may enter into an agreement with the Community Association whereunder the Association may collect the Assessments of the Community Association for Unit Owners, or vice versa.

22.3 Amendments. Notwithstanding anything contained in this Declaration or the Articles of Incorporation, Bylaws or Rules and Regulations of the Association to the contrary, no amendment to any of said documents shall be effective as against the Community Association if same alters, impairs or prohibits the rights of the Community Association or its Members unless the Community Association consents thereto.

22.4 Non-Discrimination. Neither the provisions of this Declaration nor those of the Articles of Incorporation, Bylaws or Rules and Regulations of the Association shall be interpreted or enforced in a manner which discriminates against the Community Association or its members (particularly, but without limitation, its members who are not Unit Owners) or Members of the Association entitled to use any portion of the Common Elements.

23. MISCELLANEOUS PROVISIONS.

23.1 Covenants Running with the Land. The covenants and restrictions as herein contained, or forming a part of the Condominium Documents, shall be deemed to run with the land and shall run perpetually unless terminated or amended as provided herein.

23.2 Savings Clause. If any provision of the Condominium Documents hereto, as the same now exist or as may be later amended or any portion thereof, shall be held invalid by any Court, or other governmental agency with proper authority to so hold, the validity of the remainder of said Condominium Documents shall remain in full force and effect.

23.3 Heirs, Successors and Assigns. These Condominium Documents shall be binding upon the heirs, nominees, successors, administrators, executors and assigns of all Unit Owners.

23.4 Notices. All notices shall be given as provided in the Bylaws.

23.5 Compliance with Fair Housing Laws. There shall be no limitation upon sale, lease, or occupancy of any Unit based upon race, creed, color, sex, religion, national origin, handicap, or familial status. The Association may make reasonable accommodations, including reasonable waiver of the covenants and restrictions of the Condominium Documents, when

necessary to afford handicapped individuals the opportunity to enjoy the Condominium premises, or to comply with other legal requirements.

23.6 Conflicts. In the event of a conflict between any provision of the Condominium Documents and the Condominium Act, the Condominium Act shall control, except in cases where the Act permits the Condominium Documents to regulate the subject, in which case the Condominium Documents will control. In the event of a conflict between this Declaration and the other Condominium Documents, same shall be governed as provided in the Bylaws.

23.7 Interpretation. The Board of Directors shall be responsible for interpreting the provisions of the Condominium Documents. The Board's interpretations shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by Association's legal counsel that an interpretation adopted by the Board is not wholly unreasonable shall conclusively establish the interpretation as valid.

23.8 Captions and Headings. The headings and captions used in the Condominium Documents are solely for convenience sake and shall not be considered a limitation of any nature in interpreting the Condominium Documents.

23.9 Waiver. The failure of the Association 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 to enforce such right, provision, covenant or condition in the future.

23.10 Plurality; Gender. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.