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CJF

DECLARATION OF CONDOMINIUM

OF

COCONUT BAY II AT BRIDGEWATER BAY, A CONDOMINIUM

MADE this 3rd day of September 2004, by LB/P - Groveway, LLC, a Delaware limited liability company, hereinafter called "Developer", for itself and its successors, grantees and assigns.

WHEREIN Developer owns the fee simple interest in certain real property, hereinafter described, intends to convert said real property to the condominium form of ownership, and makes the following declarations:

1. **THE LAND**: Developer owns certain real property located in Collier County, Florida, as more particularly described as Parcel A, Parcel B, Parcel C, Parcel J, Parcel K and Parcel L, in Exhibit "A" Page 1 of 8, Exhibit "A" Page 2 of 8, Exhibit "A" Page 3 of 8, Exhibit "A" Page 4 of 8, Exhibit "A" Page 5 of 8 and Exhibit "A" Page 6 of 8, attached hereto and incorporated herein by this reference (the "Land").

2. **SUBMISSION STATEMENT**: Developer hereby submits the Land and all improvements erected or to be erected thereon, all easements, rights and appurtenances belonging thereto, and all other property, real, personal or fixed, located on and intended for use in connection therewith, to the condominium form of ownership and use in the manner provided by the Florida Condominium Act as it exists on the date of the recording of this Declaration; excluding therefrom, however, any public utility installations, cable television lines, and other similar equipment that are owned by the utility furnishing services to the Condominium. The covenants and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future owners of condominium parcels. The acquisition of title to a unit, or any other interest in the condominium property, or the lease, occupancy, or use of any portion of the condominium property shall constitute an acceptance and ratification of all provisions of this Declaration as it may be amended from time to time, and shall signify agreement to be bound by its terms.

Coconut Bay II at Bridgewater Bay, a Condominium, contains 48 residential units in six (6) 2--story buildings. Each building contains 8 carriage home units.

3. **NAME**: The name by which this condominium shall be identified is Coconut Bay II at Bridgewater Bay, a Condominium (the "Condominium").

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

4.1 "Architectural Review Committee" or "ARC" means the committee formed pursuant to the Community Declaration to maintain the quality and architectural harmony of improvements within Bridgewater Bay.

4.2 "Assessment" means a share of the funds required for the payment of common expenses which from time to time is assessed against the units.

4.3 "Association" means Coconut Bay II at Bridgewater Bay Condominium Association, Inc., a Florida corporation not for profit, the entity responsible for the operation of this condominium. The Association is a "Neighborhood Association", as defined in the Community Documents.

4.4 "Association Property" means all property, real or personal, owned or leased by the Association for the use and benefit of the unit owners.

4.5 "Board of Directors" or "Board" means the representative body which is responsible for the administration of the Association's affairs, and is the same body referred to in the Condominium Act as the "Board of Administration".

4.6 "Bridgewater Bay" means the name given to the master planned community being developed on the Properties by Declarant in Collier County in accordance with the Community Documents.

4.7 "Community Association" means the Bridgewater Bay Property Owner's Association, Inc., a Florida corporation not for profit. By acquisition of title to a unit in the Condominium, each unit owner automatically becomes a member of the Community Association as further described in the Community Documents. Each unit shall be obligated for assessments and other charges levied by the Community Association, such amounts to be collected by the Association as a common expense. Membership has only those rights and privileges contained in the Community Documents and in the rules promulgated by the Community Association. All unit owners in the Condominium shall be members of the Community Association.

4.8 "Community Declaration" means the Declaration of Covenants, Conditions, Restrictions and Easements for Bridgewater Bay, as originally recorded in Official Records 2690, at Pages 896 through 977 inclusive, of the Public Records of Collier County, Florida as it may be amended from time to time.

4.9 "Community Documents" means the Community Declaration and all recorded exhibits to it, including the Articles of Incorporation and Bylaws of the Community Association, all as amended from time to time.

4.10 "Condominium Documents" means and includes this Declaration and all recorded exhibits hereto, as amended from time to time.

4.11 "Developer" means LB/P - Groveway, LLC, a Delaware limited liability company, its grantees, successors and assigns. Developer shall have the right to assign any and all of the rights and privileges reserved for Developer under this Declaration. A unit owner, solely by the purchase of a unit, shall not be deemed a successor or assign of Developer or of the rights of Developer under the condominium documents or by law unless such unit owner is specifically so designated as

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a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Developer.

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

(A) One natural person.

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

(C) Two or more natural persons meeting the requirements of (B) above, except that there is among them not more than one person who is not related to some or all of the others.

4.13 "Guest" means any person (other than the unit owner and his family), who is physically present in, or occupies a unit on a temporary basis at the invitation of the owner or other legally permitted occupant, without the payment of consideration. "Temporary" means not longer than 60 days in any calendar year.

4.14 "Institutional Mortgagee" shall refer to any one of the following:

(A) A lending institution holding a mortgage encumbering a unit, including without limitation any of the following types of institutions or entities: a federal or state savings and loan or building and loan association, a bank chartered by a state or federal government, a real estate investment trust, a pension and profit sharing trust, a mortgage company doing business in the State of Florida, or a life insurance company doing business in Florida which is approved by the Commissioner of Insurance of the State of Florida.

(B) A governmental, quasi-governmental or private company that is engaged in the business of making, purchasing, holding, guaranteeing or insuring residential mortgages, including without limitation the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration and the Department of Urban Development.

(C) Developer and any investors and lenders, or the successors and assigns of such investors and lenders, who have loaned money to Developer to acquire land comprising the Condominium or to construct improvements, and who have a first mortgage lien on all or a portion of the Condominium securing such loan.

4.15 "Lease" means the grant by a unit owner of a temporary right of use of the owner's unit for valuable consideration.

4.16 "Legal Fees" means reasonable fees for attorney and paralegal services incurred in connection with (i) negotiation and preparation for litigation, whether or not an action is actually begun, through and including all trial and appellate levels and post-judgment proceedings; and (ii) collection of past due assessments, including without limitation, preparation of notices and liens, and shall also include court costs through and including all trial and appellate levels and post-judgment proceedings.

4.17 "Limited Common Elements" means and includes those common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

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

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

4.20 "Properties" means the real property described as such in to the Community Declaration, together with any additional property subjected to the Community Declaration from time to time.

4.21 "Rules and Regulations" means those rules and regulations promulgated by the Board of Directors, governing the use of the common elements and the operation of the Association.

4.22 "Unit Owner" or "Owner" means the record owner of legal title to a condominium parcel in this Condominium.

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5. DESCRIPTION OF IMPROVEMENTS; SURVEY AND PLANS:

5.1 Survey and Plot Plan. Attached hereto as part of Exhibit "B", and incorporated by reference herein, are a survey of the Land, and a plot plan, which graphically describe the improvements in which units are located, and which show all the units, including their identification numbers, locations and approximate dimensions and the common elements and limited common elements. Together with this Declaration, the exhibit is in sufficient detail to identify each unit, the common elements, limited common elements, and their relative locations and dimensions. No unit bears the same designation as any other unit in the Condominium.

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

(A) Upper and Lower Boundaries. The upper and lower boundaries of the unit shall be the following boundaries extended to their intersections with the perimeter boundaries:

(1) Upper Boundaries. The horizontal plane of the unfinished lower surface of the ceiling of the unit.

(2) Lower Boundaries. The horizontal plane of the unfinished upper surface of the floor of the unit.

(B) Perimeter Boundaries. The perimeter boundaries of the unit shall be the vertical planes of the unfinished interior surfaces of the drywall walls bounding the unit as shown in Exhibit "B" hereto, extended to their intersections with each other and with the upper and lower boundaries.

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

(D) Apertures. Where there are openings in any boundary, including, without limitation, windows, doors and skylights, the boundaries of the unit shall extend to the interior unfinished surfaces of the coverings of such openings, and their frameworks thereof. Therefore, windows, doors, skylights, screens and all framing, casings and hardware therefor, are excluded from the unit.

(E) Utilities. The unit shall not be deemed to include any pipes, wiring, ducts or other utility installations that are physically within the above-described boundaries, but which serve other units or the common elements. Such utility installations shall be common elements.

In cases not specifically covered in this Section 5.2, or in any case of conflict or ambiguity, the graphic depictions of the unit boundaries set forth in Exhibit "B" hereto shall control in determining the boundaries of a unit, except the provisions of 5.2(D) above shall control over Exhibit "B".

6. CONDOMINIUM PARCELS; APPURTENANCES AND USE:

6.1 Shares of Ownership. The owner of each unit shall also own an undivided share in the common elements and the common surplus. Each unit in the Condominium shall have a 1/48th undivided share in the common elements and in any common surplus.

6.2 Appurtenances to Each Unit. The owner of each unit shall have certain rights and own a certain interest in the condominium property, including without limitation the following:

(A) An undivided ownership share in the Land and other common elements and in the common surplus, as specifically set forth in Section 6.1 above.

(B) Membership in the Association, with full voting rights appertaining thereto, which shall be acquired and exercised as provided in the Articles of Incorporation and Bylaws of the Association, attached hereto as Exhibits "C" and "D", respectively.

(C) The exclusive right to use the limited common elements reserved for the unit, and the non-exclusive right to use the common elements and association property.

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

(E) Membership in the Community Association, with full voting rights appertaining thereto, and with all rights and subject to obligations provided in the Community Documents.

(F) Other appurtenances as may be provided by law or by this Declaration.

Each unit and its appurtenances constitutes a "condominium parcel".

6.3 Use and Possession. A unit owner is entitled to exclusive use and possession of his unit. An owner is entitled to use the common elements and association property in accordance with the purposes for which they are intended, but no use of the unit or of the common elements and association property may unreasonably interfere with the rights of other unit owners or other persons

having rights to use the condominium property. No unit may be divided, and no fractional portion sold, leased or otherwise transferred. The use of the units, common elements and limited common elements shall be governed by the condominium documents and by the rules and regulations adopted by the Board of Directors, as set forth in the Bylaws.

7. COMMON ELEMENTS; EASEMENTS:

7.1 Definition. The term "common elements" means all of the property submitted to condominium ownership that is not within the unit boundaries set forth in Section 5 above. The common elements include without limitation the following:

(A) The Land.

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

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

(D) An easement of support of every portion of a unit or the Condominium which contributes to the support of a building.

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

7.2 Easements. Each of the following easements and easement rights is reserved through the condominium property and is a covenant running with the land of the Condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any land from the Condominium. None of these easements may be encumbered by any leasehold or lien other than those on the condominium parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of unit owners with respect to such easements.

(A) Utility and other Easements. The Association has the power, without the joinder of any unit owner, to grant easements such as electric, gas, cable television, or other utility or service easements, or relocate any existing access easements in any portion of the common elements as the Association shall deem necessary or desirable for the proper operation and maintenance of the Condominium. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the units. The Association may also transfer title to utility-related equipment, facilities or material, and take any other action to satisfy the requirements of any utility company or governmental agency to which any such utility-related equipment, facilities or material are to be so transferred.

(B) Encroachment. If any unit encroaches upon any of the common elements or upon any other unit for any reason other than the intentional act of the unit owner, or if any common element encroaches upon any unit, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.

(C) Ingress and Egress. A non-exclusive easement shall exist in favor of each unit owner and occupant, their respective guests and invitees for pedestrian

traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the common elements as from time to time may be intended and designed for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portions of the common elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the private roads within Bridgewater Bay and the public ways.

(D) Support. Each unit shall have an easement of support and necessity and shall be subject to an easement of support and necessity in favor of all other units and common elements.

(E) Construction; Maintenance. Developer (including its designees and contractors) shall have the right to enter the condominium property and take any action reasonably necessary or convenient for the purpose of completing the construction thereof, provided such activity does not prevent or unreasonably interfere with the use and enjoyment by the unit owners of the condominium property.

(F) Sales Activity. For so long as it holds any unit for sale in the ordinary course of business, Developer and its designees shall have the right to use, without charge, any units owned by it, the common elements and association property, in order to establish, modify, maintain and utilize, as it and they deem appropriate, model units and sales and other offices. Without limiting the generality of the foregoing, Developer and its designees may show model units or the common elements and association property to prospective purchasers or tenants, erect signs or other promotional material on the condominium property, and take all other action helpful for sales, leases and promotion of the Condominium. Any models, sales or other offices, signs and any other items pertaining to any sales or leasing efforts shall not be considered part of the common elements and association property and shall remain the property of Developer. Developer reserves the right for itself and any of its affiliates to use the models and office(s) for other communities located within Bridgewater Bay, as Developer and/or any of Developer's affiliates as developers of other communities may determine, in their sole discretion, to the extent permitted by law.

7.2.1 Ingress and Egress Easement Over Driftwood Way. In addition to the foregoing easements, a non-exclusive easement shall exist in favor of each unit owner and occupant, and their respective guests and invitees, for pedestrian and vehicular traffic over, through, and across that certain parcel of land owned by Developer which is legally described in Exhibit "A" Page 7 of 8 and Page 8 of 8, and graphically depicted in Exhibit "B" Page 8 of 8 to this Declaration. The aforementioned parcel is a portion of the roadway known as Driftwood Way which services the condominium and provides ingress and egress to the private roads within Bridgewater Bay and the public ways. Developer intends to enlarge Driftwood Way to service other condominiums which may or may not be created, and if Driftwood Way is so enlarged, this easement shall extend over, across and through Driftwood Way as enlarged. Driftwood Way is not part of the Condominium property, and is therefore not a common element of the Condominium. The Community Association shall maintain Driftwood Way, and such maintenance expenses shall be an operating cost of the Community Association. All property comprising Driftwood Way shall be conveyed by the Developer by Quit Claim Deed to the Community Association not later than 60 days after turnover of control of the Association to unit owners other than the Developer, and the Community Association shall accept such conveyance, and shall pay all costs of the conveyance.

7.3 Restraint Upon Separation and Partition. The undivided share of ownership in the common elements and common surplus appurtenant to a unit cannot be conveyed or encumbered separately from the unit and shall pass with the title to the unit, whether or not separately described. No owner may maintain an action for partition of the common elements. The shares in the funds and assets of the Association cannot be assigned, pledged or transferred except as an appurtenance to the units.

8. LIMITED COMMON ELEMENTS:

8.1 Description of Limited Common Elements. Certain common elements have been, or may be, designated as limited common elements, reserved for the use of a particular unit or units, to the exclusion of the other units. The limited common elements and the units to which their exclusive use is appurtenant, are as described in this Declaration and as further identified on the attached survey and plot plan. The following common elements are hereby designated as limited common elements:

(A) Air Conditioning and Heating Equipment. All equipment, fixtures and installations located outside of a unit, which furnish air conditioning or heating exclusively to that unit, shall be limited common elements, the exclusive use of which is appurtenant to the unit, maintained, repaired and replaced by, and solely at the expense of, the owner of the unit.

(B) Lanai. Any lanai attached to and exclusively serving a unit shall be a limited common element.

(C) Garages. There are shown on Exhibit "B" certain one (1) car garages as limited common elements. Each unit shall have the exclusive right to use the garage assigned to it. Maintenance of the interior spaces within a garage, including electrical installations, and the door affording access to the unit, the hardware and interior surface of the overhead door, and the automatic door opener, shall be the unit owner's responsibility. Maintenance of the exteriors, overhead doors, roofs and structural components of the garages shall be by the Association as a common expense.

(D) Entries and Stairs. There are presently no entries, stairways, stairwells or railings which are not part of a unit. If, for any reason, any entries, stairways, stairwells or railings are created, which are attached to, and exclusively serve a particular unit, they will be limited common elements for the exclusive use of the units which they serve. The maintenance, repair and replacement thereof would become the responsibility of the Association and would be a common expense.

(E) Others. Any part of the common elements that is connected to or exclusively serves a single unit, and is specifically required in Section 11 of this Declaration to be maintained, repaired or replaced by or at the expense of the unit owner, shall be deemed a limited common element, whether specifically described above or not.

9. ASSOCIATION: The operation of the Condominium is by Coconut Bay II at Bridgewater Bay Condominium Association, Inc., a Florida corporation not for profit, which shall perform its functions pursuant to the following:

9.1 Articles of Incorporation. A copy of the Articles of Incorporation of the Association is attached as Exhibit "C".

9.2 Bylaws. The Bylaws of the Association shall be the Bylaws attached as Exhibit "D" as they may be amended from time to time.

9.3 Delegation of Management. The Board of Directors may contract for the management and maintenance of the condominium property and authorize a licensed management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, keeping of records, enforcement of rules, and maintenance, repair and replacement of the common elements with the funds made available by the Association for such purposes. The Association and its Directors and officers, however, shall retain at all times the powers and duties provided in the Condominium Act.

9.4 Membership. The membership of the Association shall be comprised of owners of the units, as further provided in the Bylaws.

9.5 Acts of the Association. Unless the approval or affirmative vote of the unit owners is specifically made necessary by some provision of the Condominium Act or these condominium documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors, without a vote of the unit owners. The officers and Directors of the Association have a fiduciary relationship to the unit owners. A unit owner does not have the authority to act for the Association by reason of being a unit owner.

9.6 Powers and Duties. The powers and duties of the Association include those set forth in the Condominium Act and the condominium documents. The Association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the condominium property and association property. The Association may impose fees for the use of common elements or association property. The Association has the power to enter into agreements to acquire leaseholds, memberships and other ownership, possessory or use interests in lands or facilities, whether or not the lands or facilities are contiguous to the lands of the Condominium for the use and enjoyment of the unit owners.

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

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

9.9 Acquisition of Property. The Association has the power to acquire property, both real and personal. The power to acquire personal property shall be exercised by the Board of Directors. Except as otherwise provided in 9.8 above, the power to acquire ownership interests in real property shall be exercised by the Board of Directors, but only after approval by at least a majority of the voting interests.

9.10 Disposition of Property. Except as provided in Section 9.8 above, any property owned by the Association, whether real, personal or mixed, may be mortgaged, sold, or otherwise encumbered or disposed of by the affirmative vote of a majority of the entire Board of Directors, without need for authorization by the unit owners. The Board of Directors, by the same vote

requirement, is empowered to delegate any of its functions or convey any of its property to any governmental unit as may be required or deemed necessary from time to time.

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

9.12 Member Approval of Certain Litigation. Notwithstanding any other provisions of the condominium documents to the contrary, the Board of Directors shall be required to obtain the prior approval of at least 3/4ths of all voting interests prior to the payment of, or contracting for the payment of, legal or other fees or expenses to any person engaged by the Association in contemplation of a lawsuit or for the purposes of making, preparing or investigating any lawsuit, or commencing any lawsuit, other than for the following purposes:

(A) the collection of assessments;

(B) the collection of other charges which owners are obligated to pay pursuant to the condominium documents;

(C) the enforcement of the use and occupancy restrictions contained in the condominium documents and rules of the Association;

(D) the enforcement of any restrictions on the sale, lease and other transfer of units;

(E) in an emergency, when waiting to obtain the approval of the members creates a substantial risk of irreparable injury to the Association, its members or the condominium property, but, in such event, the aforesaid vote shall be taken with respect to the continuation of the action at the earliest practical date (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the requisite vote of 3/4ths of the voting interests); or

(F) filing a compulsory counterclaim.

This Section 9.12 shall not be amended without the approval of at least 3/4ths of all voting interests.

9.13 Indemnification. The Association covenants and agrees that it will indemnify and hold harmless Developer and the members of the Board from and against any and all claims, suits, actions, damages, and/or causes of action arising from any personal injury, loss of life, and/or damage to property sustained in or about condominium property, association property or the appurtenances thereto from and against all costs, legal fees, expenses and liabilities incurred in and about any such claim, the investigation thereof or the defense of any action or proceeding brought thereon, and from and against any orders, judgments and/or decrees which may be entered therein. Included in the foregoing provisions of indemnification are any expenses that Developer, prior to turnover of control of the Association, may be compelled to incur in bringing suit for the purpose of compelling the specific enforcement of the provisions, conditions and covenants contained in this Declaration to be kept and performed by the Association. Notwithstanding the foregoing, nothing herein shall impair the rights of the Association or the unit owners as provided for under Section 718, Florida Statutes. Notwithstanding the foregoing, nothing herein shall impair the rights of the Association or the unit owners as provided for under Section 718, Florida Statutes.

10. ASSESSMENTS AND LIENS: The Association has the power to levy and collect assessments against each unit and unit owner in order to provide the necessary funds for proper

operation and management of the condominium and for the operation of the Association. This power includes both "regular" assessments for each unit's share of the common expenses as set forth in the annual budget, and "special" assessments for unusual, non-recurring or unbudgeted common expenses. The Association may also levy special charges against any individual unit for any amounts, other than for common expenses, which are properly chargeable against such unit under this Declaration or the Bylaws. Assessments shall be levied and payment enforced as provided in Section 6 of the Bylaws, and as follows:

10.1 Common Expenses. Common expenses include all expenses of the operation, maintenance, repair, replacement or insurance of the common elements and association property, the expenses of operating the Association, and any other expenses properly incurred by the Association for the Condominium, including any amounts budgeted for the purpose of funding reserve accounts. The cost of water and sewer service to the units and for irrigation shall be a common expense. Assessments levied by the Community Association shall be a common expense. EACH UNIT OWNER ACKNOWLEDGES THAT ANY WATER PROVIDED FOR IRRIGATION PURPOSES MAY BE UNTREATED WATER OR TREATED EFFLUENT REUSE WATER. NEITHER DEVELOPER NOR ASSOCIATION SHALL BE RESPONSIBLE FOR THE QUALITY OF WATER PROVIDED FOR SUCH IRRIGATION PURPOSES.

If the Association contracts for basic cable or satellite television programming service in bulk for the entire Condominium, the costs of such service shall be a common expense to the extent permitted by law. Bulk contracts, however, may be entered into by the Community Association for such services.

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10.2 Share of Common Expenses. The owner of each unit shall be liable for a share of the common expenses equal to his share of ownership of the common elements and the common surplus, as set forth in Section 6.1 above.

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

10.4 Who is Liable for Assessments. The owner of each unit, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while he is the owner. Multiple owners are jointly and severally liable. Except as provided in Section 20.3 below, whenever title to a condominium Unit is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid assessments against the transferor, regardless of when incurred, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee.

10.5 No Waiver or Excuse from Payment. The liability for assessments may not be avoided or abated by waiver of the use or enjoyment of any common elements or association property, by abandonment of the unit on which the assessments are made, or by interruption in the availability of the unit or the common elements for any reason whatsoever. No unit owner may be excused from payment of his share of the common expenses unless all unit owners are likewise proportionately excused from payment, except as otherwise provided in Section 20.3 below as to certain mortgagees, and in Section 10.12 below as to Developer. Nothing herein shall be construed to prevent the Association from compromising or settling a past due assessment claim for less than full payment, if the Board determines that such action is in the best interest of the Association.

10.6 Application of Payments; Failure to Pay Interest. Assessments and installments thereon paid on or before 10 days after the date due shall not bear interest, but all sums not so paid shall bear interest at the highest rate allowed by law, calculated from the date due until paid. The Association may also impose a late payment fee (in addition to interest) to the extent permitted by law. Assessments and installments thereon shall become due, and the unit owner shall become liable for said assessments or installments on the date established in the Bylaws or otherwise set by the Board of Directors for payment. All payments on account shall be applied first to interest, then to late payment fees, and attorney's fees and costs, and finally to unpaid assessments, in such manner as is provided by law. No payment by check is deemed received until the check has cleared.

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

10.8 Liens. The Association has a lien on each condominium parcel securing payment of past due assessments, including interest and attorney's fees and costs incurred by the Association incident to the collection of the assessment or enforcement of the lien, whether before, during or after a lien foreclosure suit. The lien is perfected upon recording a Claim of Lien in the Public Records of Collier County, Florida, stating the description of the condominium parcel, the name of the record owner, the name and address of the Association, the assessments past due and the due dates. The lien is in effect until barred by law. The Claim of Lien secures all unpaid assessments coming due prior to a final judgment of foreclosure. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

10.9 Priority of Lien. The Association's lien for unpaid assessments shall be subordinate and inferior to any recorded first mortgage or mortgage of Developer unless the Association's Claim of Lien was recorded prior to the mortgage. The Association's lien shall be superior to, and take priority over, any other mortgage or lien regardless of when the mortgage was recorded, except as otherwise provided by law. Any lease of a unit shall be subordinate and inferior to the Association's lien, regardless of when the lease was executed.

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

10.11 Certificate As To Assessments. Within 15 days after receiving a written request by a unit owner, unit purchaser or mortgagee, the Association shall provide a certificate (sometimes referred to as an "estoppel letter") stating whether all assessments and other monies owed to the Association by the unit owner with respect to the condominium parcel have been paid. Any person other than the owner who relies upon such certificate shall be protected thereby.

10.12 Statutory Assessment Guarantee; Liability of Developer for Common Expenses. Developer guarantees that from the date this Declaration is recorded in the Public Records of Collier County, Florida until December 31, 2003 or such earlier date as unit owners other than the

Developer first elect a majority of the Directors of the Association (the "turnover date"), assessments against units for common expenses will not exceed $921.38 per quarter ($307.13 per month). If the turnover date has not occurred by December 31, 2003, the Developer further guarantees that from January 1, 2004, until the turnover date, assessments against units for common expenses will not exceed $1,110.00 per quarter ($370.00 per month). If the turnover has not occurred by December 31, 2004, the Developer further guarantees that from January 1, 2005 until the turnover, assessments against units for common expenses will not exceed $1,335.00 per quarter ($445.00 per month). During this guarantee period, Developer and all units owned by Developer shall not be subject to assessment for common expenses. However, Developer shall be obligated to fund any deficit caused by the failure of assessments at the guaranteed level receivable from other unit owners to meet the common expenses incurred by the Association.

Notwithstanding the foregoing, if during the time Developer controls the Association, the Association has maintained all insurance coverage required by Section 718.111(11)(a), Florida Statutes, common expenses incurred during the guarantee period as a result of a natural disaster or an act of God occurring during the said guarantee period which are not covered by the proceeds from such insurance, may be assessed against all unit owners owning units on the date of such natural disaster or act of God, and their successors and assigns, including the Developer with respect to units owned by the Developer.

Only regular periodic assessments against the unit owners for common expenses as disclosed in the annual operating budget shall be used for payment of common expenses during the guarantee period. No funds which are receivable from unit owners and payable to the Association, including capital contributions or startup funds collected from the unit owners at closing on their purchase of the Unit may be used by the Developer for payment of common expenses.

10.13 Special Assessments. So long as Developer holds any unit for sale in the ordinary course of business, Developer shall be exempt from assessments of Developer as a unit owner for capital improvements unless Developer gives its approval in writing. Developer shall further be exempt from any action by the Association that would be detrimental to the sales of units by Developer unless Developer approves the action in writing. However, an increase in assessments for common expenses without discrimination against Developer will not be deemed to be detrimental to the sales of units.

11. MAINTENANCE; LIMITATIONS UPON ALTERATIONS AND IMPROVEMENTS: Responsibility for the protection, maintenance, repair and replacement of the condominium property, and restrictions on its alteration and improvement shall be as follows:

11.1 Association Maintenance. The Association is responsible for the protection, maintenance, repair and replacement of all common elements and association property (other than the limited common elements that are required elsewhere herein to be maintained by the unit owner). The cost is a common expense. The Association's responsibilities include, without limitation:

(A) Electrical wiring up to the circuit breaker panel in each unit.

(B) Water pipes, up to the individual unit cut-off valve inside each unit.

(C) Cable television wiring up to the point where the wiring enters individual units.

(D) Air conditioning condensation drain lines, up to the point of connection to an individual unit drain line.

(E) Sewer lines, up to where the sewer lines enter individual units.

(F) All installments located within one unit but serving another unit, or located outside the unit, for the furnishing of utilities to more than one unit or the common elements.

(G) The exterior surfaces of the main entrance doors to the units.

(H) All exterior building walls, including painting, waterproofing and caulking.

(I) Roofs.

(J) Garages, to the extent provided in Section 8.1(c) hereof.

The Association's responsibility does not include interior wall switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within a unit and serving only that unit. All incidental damage caused to a unit or limited common elements by work performed or ordered to be performed by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the property as nearly as practical to its condition before the damage, and the cost shall be a common expense, except the Association shall not be responsible for the damage to any alteration or addition made by a unit owner or his predecessor in title or for damage to paint, wallpaper, paneling, flooring or carpet which, of necessity must be cut or removed to gain access to work areas located behind them.

11.2 Unit Owner Maintenance. Each unit owner is responsible, at his own expense, for all maintenance, repairs, and replacements of his own unit and certain limited common elements. The owner's responsibilities include, without limitation:

(A) Maintenance, repair and replacement of screens, windows and window glass.

(B) The entrance door to the unit and its interior surface.

(C) All other doors within or affording access to the unit.

(D) The electrical, mechanical and plumbing fixtures, switches, valves, drains and outlets (including connections) located partially or entirely within the unit or serving only the unit, except those that are expressly made the Association's responsibility elsewhere in this Section 11.

(E) The circuit breaker panel located inside the unit, and all electrical wiring into the unit from the panel.

(F) Appliances, water heaters, smoke alarms and vent fans.

(G) All air conditioning and heating units, service lines, equipment, thermostats, ducts and installations serving the unit exclusively; provided, however, that if any repair or alteration is to made on the common elements, the prior approval of the Board of Directors shall be required.

(H) Carpeting and other floor coverings.

(I) Door and window hardware and locks.

(J) Shower pans.

(K) The main water supply shut-off valve for the unit.

(L) All interior, partition walls which do not form part of the boundary of the unit.

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

(A) Lanais. Where a limited common element consists of a lanai, the unit owner who has the right to the exclusive use of said lanai shall be responsible for the day-to-day cleaning and care of the walls, floor and ceiling bounding the area, if any; any fixed and/or sliding glass doors in the entrance to said area and screens in the entrance to said area, if any; and the wiring, electrical outlet(s) and fixture(s) thereon, if any, and the replacement of light bulbs. No lanai may be carpeted, covered or enclosed in any way without the prior approval of the Board of Directors, and no carpeting or river rock may be installed or affixed to concrete surfaces exposed to the elements. The maintenance, repair, replacement and insurance of such approved carpeting, covering or enclosure shall be the responsibility of the unit owner. Maintenance, repair and replacement of all screening, including frames therefor and screen doors, if any, shall be the responsibility of the owner. The Association is responsible for the maintenance, repair and replacement of all exterior building walls and concrete slabs.

(B) Interior Decorating. Each unit owner is responsible for all decorating within his own unit, including painting, wallpapering, paneling, floor covering, draperies, window shades, curtains, lamps and other light fixtures, and other furnishings and interior decorating.

(C) Flooring. All units above the ground floor shall always have the floors covered with wall-to-wall carpeting installed over high quality padding, except carpeting is not required in kitchens, bathrooms or laundry rooms. An owner who desires to install in place of carpeting any hard-surface floor covering (e.g. marble, slate, ceramic tile, parquet, hardwood, etc.) shall also install a sound absorbent underlayment of such kind and quality as to substantially reduce the transmission of noise to adjoining units, and must obtain written approval of the Board of Directors prior to making any such installation. If prior approval is not obtained, the Board, in addition to exercising all the other remedies provided in this Declaration, may require the unit owner to cover all such hard-surface flooring with carpeting, or require the removal of such hard-surface flooring at the expense of the offending unit owner. No carpeting of any kind may be installed or affixed to concrete surfaces exposed to the elements.

(D) Window Coverings. The covering and appearance of windows and doors, whether by draperies, shades, reflective film or other items, whether installed within or outside of the unit, visible from the exterior of the unit, shall be white or off-white in color and further subject to the rules and regulation of the Association.

(E) Modifications and Alterations. If a unit owner makes any modifications, installations or additions to his unit or the common elements, the unit owner and his successors in title shall be financially responsible for the insurance, maintenance, repair and replacement of the modifications, installations or additions, as well as the costs of repairing any damage to the common elements or other units resulting from the existence of such modifications, installations or additions, and the costs of removing and replacing or reinstalling such modifications if their removal by the Association becomes necessary in order to maintain, repair, replace or protect other parts of the condominium property. In the event of conflict, the provisions of this paragraph shall prevail over the provisions of Section 11.1 above.

(F) Use of Licensed and Insured Contractors. Whenever a unit owner contracts for maintenance, repair, replacement, alteration, addition or improvement of any portion of the unit or common elements, whether with or without Association approval, such owner shall be deemed to have warranted to the Association and its members that his contractor(s) are properly licensed and fully insured, and that the owner will be financially responsible for any resulting damage to persons or property not paid by the contractor's insurance.

(G) Duty to Report. Each unit owner shall promptly report to the Association or its agents any defect or need for repairs to the condominium property or association property, the remedying of which is the responsibility of the Association.

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11.4 Alteration to Units, Limited Common Elements or Common Elements by Unit Owners. No owner shall make or permit the making of any material alterations or substantial additions to his or her Unit, its appurtenant limited common elements, or the common elements, or in any manner change the exterior appearance of any portion of the Condominium, without first obtaining the written approval of the Board of Directors, which approval may be denied if the Board of Directors determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the Condominium in part or in whole. Any glass, screen, curtain, blind, shutter, awning, or other modifications, additions or installations which may be installed where visible from outside the unit are subject to regulation by the Board of Directors. No owner may alter the landscaping in any way without prior Board approval. If any unit owner requests approval of an alteration or modification involving the removal of any interior partition wall, the Association may permit such removal if the removal would not materially affect or interfere with the utility services constituting common elements, if any, located therein. The Board of Directors may revoke or rescind any approval of an alteration or modification previously given, if it appears that the installation has had unanticipated adverse effects on the Condominium. The approval of the Board of Directors pursuant to this Section 11.4 shall be in addition to any approval required by the ARC.

11.5 Alterations and Additions to Common Elements and Association Property. The protection, maintenance, repair, insurance and replacement of the common elements and association property is the responsibility of the Association, and the cost is a common expense. Beyond this function, the Association shall make no material alteration of, nor substantial additions to, the common elements or any real property owned by the Association which costs more than $7,500.00 in the aggregate in any calendar year without the prior approval of at least a majority of the voting interests. Alterations or additions costing less than this amount may be made with Board approval. If work reasonably necessary to protect, maintain, repair, replace or insure the common elements or association property also constitutes a material alteration or substantial addition to the common elements or association property, no prior unit owner approval is required. The approval of

the Board of Directors or the members pursuant to this Section 11.5 shall be in addition to any approval required by the ARC.

11.6 Enforcement of Maintenance. If, after reasonable notice, the owner of a unit fails to maintain the unit or its appurtenant limited common elements as required above, the Association shall have the right to institute legal proceedings to enforce compliance, or may take any other lawful actions to remedy such violations, including but not limited to, repairing, replacing, or maintaining any item which in the business judgment of the Board of Directors constitutes an unreasonable danger to the common elements or residents. Any expenses incurred by the Association in performing work within the unit as authorized by this Declaration shall be charged to the unit owner, together with reasonable attorney's fees and other expenses of collection, if any.

11.7 Negligence: Damage Caused by Condition in Unit. Each owner shall be liable for the expenses of any maintenance, repair or replacement of the common elements, other units, association property, or personal property made necessary by his act or negligence, or by that of any member of this family or his guests, employees, agents or tenants. Each unit owner has a duty to maintain his unit, any limited common element appurtenant to the unit (except those limited common elements required to be maintained by the Association, as provided in Section 11.1 above) and personal property therein in such a manner as to prevent foreseeable and reasonably preventable damage to other units, the common elements, association property or the property of other owners and residents. If any condition, defect or malfunction resulting from the owner's failure to perform this duty shall cause damage to other units, the common elements, association property or property within other units, the owner of the offending unit shall be liable to the person or entity responsible for repairing the damaged property for all costs of repair or replacement not paid by insurance. If one or more of the units involved is not occupied at the time the damage is discovered, the Association may enter the unit without prior notice to the owner and take reasonable action to mitigate damage or prevent its spread. The Association may, but is not obligated to, repair the damage with the prior consent of the owner. Nothing herein contained shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

11.8 Association's Access to Units. The Association has an irrevocable right of access to the units for the purposes of maintaining, repair and replacing the common elements or portions of a unit to be maintained by the Association under this Declaration, and as necessary to prevent damage to the common elements or to one or more units. The Association's right of access includes, without limitation, entry for the purposes of pest control as well as the right, but not the duty, to enter under circumstances where the health and safety of residents may be endangered. The exercise of the Association's rights of access to the unit shall be accomplished with due respect for the rights of occupants to privacy and freedom from unreasonable annoyance, as well as with appropriate precautions to protect the personal property within the unit. The Association may retain a pass-key to all units. If it does, no unit owner shall alter any lock, nor install a new lock, which prevents access when the unit is unoccupied, unless the unit owner provides a key to the Association. If the Association is not given a key, the unit owner shall pay all costs incurred by the Association in gaining entrance to the unit, as well as damage to his unit caused by gaining entrance thereto, and all damages resulting from delay in gaining entrance to his unit caused by the non-availability of a key.

11.9 Pest Control. The Association may supply pest control services for the inside of each unit, with the cost being a common expense. A unit owner has the option to decline service unless the Association determines that service is necessary for the protection of a building or the Condominium as a whole, in which case the owner must either permit the Association's pest control company to enter the unit, or must employ a licensed pest control company to perform the required pest control services and furnish written evidence to the Association that such treatment has occurred. Because the cost of pest control service provided by the Association is a common

expense, the election of an owner not to use the service shall not reduce the owner's assessments.

11.10 Developer's Warranties. Notwithstanding anything contained in this Section 11 to the contrary, each unit owner acknowledges and agrees that Developer shall be irreparably harmed if a unit owner undertakes the repair or replacement of any defective portion of a unit, a building, the common elements or any other real or personal property comprising the condominium property during the time in which Developer is liable under any warranties in connection with the sale of any unit. Accordingly, each unit owner hereby agrees: (i) to promptly, upon such unit owner's knowledge of the existence of any such defective portion, provide written notice to Developer specifying each defective portion, upon the receipt of which Developer shall have 60 days ("Repair Period") to commence the repair or replacement of such defective portion and diligently pursue the completion thereof; and (ii) not to repair, replace or otherwise adjust any such defective portion during the Repair Period; provided, however, that if Developer fails to commence the repair or replacement of such portion within the Repair Period, such unit owner may repair or replace same. If any unit owner fails to comply with the provisions of this Section 11.10, such unit owner will be deemed to have breached his obligation to mitigate damages, and such unit owner's conduct shall constitute an aggravation of damages.

11.11 Conformity with Community Documents. Notwithstanding anything in this Section 11 to the contrary, alterations, improvements, repairs and maintenance of the condominium property shall conform to the provisions of the Community Documents, except where the provisions herein are more restrictive.

11.12 Combining Units. Nothing in this Declaration shall be construed as prohibiting the Board of Directors from authorizing the removal of any party wall between two or more units to allow them to be used together as one unit. In that event, all assessments, voting rights and the share of common elements shall be calculated as the units were originally designated on the exhibits attached to the original Declaration, notwithstanding the fact that several units are used as one, to the intent and purpose that the owner of such combined units shall be treated as the owner of as many units as have been so combined.

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

12.1 Units. Each unit shall be occupied by only one family and its guests at any time. Each unit shall be used as a residence and for no other purpose. No unit shall be permanently occupied by more than 2 persons per bedroom, and no unit shall be occupied overnight by more than 2 persons per bedroom plus 2 persons, such number to include all guests. No business, commercial activity or profession shall be conducted in or from any unit. The use of a unit as a "public lodging establishment" (as defined in Chapter 509, Florida Statutes) shall be deemed a business or commercial use. This restriction shall not be construed to prohibit any owner from maintaining a personal or professional library, from keeping his personal, business or professional records in his unit, or from handling personal, business or professional telephone calls or written correspondence in and from the unit. Such uses are expressly declared customarily incident to residential use.

12.2 Approval of Improvements by ARC. As set forth in the Community Documents, all buildings, structures, landscaping and improvements to be built on or in the Properties, including the Condominium, must be approved by the ARC. The Community Declaration provides the procedure and method of obtaining said approval.

12.3 Minors. There is no restriction on the ages of occupants of units. All occupants under 18 years of age shall be closely supervised at all times by an adult to insure that they do not become a source of annoyance to other residents.

12.4 Pets. The owner of each unit may keep no more than 2 commonly accepted household pets such as a dog or cat, not more than 2 caged birds, and reasonable numbers of tropical fish in a unit, subject to reasonable regulation by the Association. Notwithstanding the foregoing, no pet shall be permitted to be kept on the Condominium property which is prohibited by the Community Documents. All pets must be carried or leashed at all times while outside of the unit. The owner is responsible for cleaning up after his pet. The ability to keep such pets is a privilege, not a right, and the Board of Directors is empowered to order and enforce the removal of any pet which becomes a source of unreasonable annoyance to other residents of the Properties. No reptiles, amphibians, poultry or livestock may be kept at the Condominium. Pets shall not be left unattended on lanais.

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

12.6 Signs. No unit owner other than Developer may post or display "For Sale", "For Rent", "Open House" or other signs or advertisements anywhere on the condominium property without the written consent of the ARC. Developer specifically reserves the right to place and maintain identifying or informational signs on the condominium property as well as any signs in connection with its sales activities.

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12.7 Use of Lanais. Lanais shall not be obstructed, littered, defaced or misused in any manner. Lanais and walkways shall be used only for the purposes intended, and they shall not be used for hanging or drying clothing, for cleaning of rugs or other household items, or for storage of bicycles or other personal property. Pets shall not be left unattended on lanais.

12.8 Motor Vehicles; Parking. Parking at the Condominium is restricted to private automobiles and passenger-type "mini-vans," jeeps and pick-up trucks having a capacity of no more than 2 tons, and those vehicles permitted by the Community Documents. Abandoned or inoperable automobiles or oversized vehicles of any kind shall not be stored or parked on any portion of the condominium property. "Abandoned or inoperable vehicle" shall be defined as any vehicle which has not been driven under its own propulsion for a period of 3 weeks or longer; provided however, this shall not include operable vehicles left on the condominium property by owners while on vacation. No commercial vehicles, campers, mobile homes, motor homes, house trailers or trailers of every other description, recreational vehicles, boats, boat trailers or house trailers shall be permitted to be parked or to be stored on the condominium property, except in closed garages, so long as such storage in the garage does not require permitted vehicles to be improperly parked. For the purpose of this Section, "commercial vehicles" shall mean those which are not designed and used for customary personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether it is a commercial vehicle. The governing provisions of the Community Documents and determination of the Association's Board of Directors as to the commercial nature of a vehicle shall be binding. Nothing in this Section 12.8 shall prohibit the parking or storage of otherwise prohibited or restricted vehicles in an area within Bridgewater Bay designated and made available by the Community Association for said parking and storage, subject to all restrictions, rules and regulations imposed by the Board of Directors of the Community Association upon such parking and storage. The prohibitions on parking contained above in this

Section 12.8 shall not apply to temporary parking of commercial vehicles such as for construction use or providing pick-up and delivery and other commercial services. No parking on lawns or in the streets shall be permitted. No vehicle shall be parked anywhere but in garages or on paved areas intended for that purpose, or as approved by the Association for construction purposes. Nothing herein shall restrict Developer or its designees from placing, parking or storing vehicles that are engaged in any activity relating to construction, maintenance, sale or marketing of any units in the Condominium.

12.9 Antennae, Aerial and Satellite Dishes. No outside television, radio or other electronic towers, aerials, antennae, satellite dishes or devices of any type for the reception or transmission of radio or television broadcasts or other means of communication shall be placed upon any portion of a unit, the condominium property or association property, except as may be required in connection with the provision of a cable television or master antenna system servicing the Condominium, or that comply with the terms of the Community Documents, or as may be allowed by any law. No ham radios or radio transmission equipment shall be operated or permitted to be operated within the condominium property or the association property without the prior written consent of the Board of Directors and the ARC.

12.10 Hurricane Season. Each unit owner who plans to be absent from his unit during hurricane season must prepare his unit prior to his departure by removing any and all furniture, potted plants and other movable objects, if any, from his lanai and exterior entry area and by designating a responsible firm or individual satisfactory to the Association to care for his unit should the unit suffer hurricane damage. No hurricane shutters may be installed which do not comply with specifications adopted by the Board of Directors. Such specifications shall be consistent with any hurricane shutter specifications adopted by the ARC.

12.11 Garages. Garage doors shall be kept closed at all times except as necessary for ingress or egress purposes. Garages may be used only for the purposes intended and may not be converted to additional living space.

12.12 Additional Restrictions. The Community Documents contain additional restrictions which are applicable to the condominium property and the unit owners. In the event of a conflict between the provisions of this Declaration and the provisions of the Community Documents, the provisions of the Community Documents shall control; provided, however, that the Declaration and the other condominium documents may contain provisions which are more restrictive than those contained in the Community Documents, in which event the more restrictive provisions shall control.

13. LEASING OF UNITS. In order to foster a stable residential community and prevent a motel-like atmosphere, the leasing of units by owners shall be restricted as provided in this Section. The ability of a unit owner to lease his unit to others is a privilege, not a right. The privilege may be revoked by the Board of Directors if it is abused by the owner. All leases of units must be in writing. A unit owner may lease only his entire unit, and then only in accordance with this Section, after receiving the approval of the Association. The lessee must be a natural person.

13.1 Procedures.

(A) Notice by the Unit Owner. An owner intending to lease his unit shall give to the Board of Directors or its designee written notice of such intention at least 20 days prior to the first day of occupancy under the lease together with the name and address of the proposed lessee, a fully executed copy of the proposed lease, and such other information as the Board may reasonably require. The Board may require a personal interview with any lessee and his spouse, if any, as a precondition to approval.

(B) Board Action. After the required notice and all information or interviews requested have been provided, the Board shall have 20 days in which to approve or disapprove the proposed lease. If the Board neither approves nor disapproves within that time, its failure to act shall be deemed the equivalent of approval, and on demand the Board shall issue a written letter of approval to the lessee.

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

(1) the unit owner is delinquent in the payment of assessments at the time the application is considered;

(2) the unit owner has a history of leasing his unit without obtaining approval, or leasing to troublesome lessees and/or refusing to control or accept responsibility for the occupancy of his unit;

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

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

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

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

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

(8) the prospective lessee, during previous occupancy in this Condominium or elsewhere, has evidenced an attitude of disregard for the Association rules;

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

(10) the owner fails to give proper notice of his intention to lease his unit to the Board of Directors.

(D) Failure to Give Notice or Obtain Approval. If proper notice is not given, the Board, at its election, may approve or disapprove the lease. Any lease entered into without approval, at the option of the Board, may be treated as a

nullity, and the Board shall have the power to evict the lessee with 5 days notice, without securing consent to such eviction from the unit owner.

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

(F) Committee Approval. To facilitate approval of leases proposed during times when many of the members are not in residence, the Board of Directors may by resolution delegate its approval powers to an *ad hoc* committee, which shall consist of at least 3 members.

13.2 Exceptions for Mortgagees. The provisions of Section 13.1 shall not apply to leases entered into by institutional mortgagees who acquire title through the mortgage whether by foreclosure or by a deed in lieu of foreclosure.

13.3 Term of Lease and Frequency of Leasing. No unit may be leased for a period of less than 30 days. No lease may be for a period of more than 1 year, and no option for the lessee to extend or renew the lease for any additional period shall be permitted without Board approval. The Board, at its discretion, may approve the same lease from year to year. No subleasing or assignment of lease rights by the lessee is allowed without Board approval.

13.4 Occupancy During Lease Term. No one but the lessee, his family members within the first degree of relationship by blood, adoption or marriage, and his spouse and temporary house guests may occupy the unit.

13.5 Occupancy in Absence of Lessee. If a lessee absents himself from the unit for any period of time during the lease term, his family within the first degree of relationship already in residence may continue to occupy the unit and may have house guests subject to all the restrictions in Sections 12 and 13.4 above. If the lessee and all of the family members mentioned in the foregoing sentence are absent, no other person may occupy the unit.

13.6 Regulation by Association. All of the provisions of the Condominium Act, the condominium documents and the rules and regulations of the Association shall be applicable and enforceable against any person occupying a unit as a lessee or guest to the same extent as against the owner. A covenant on the part of each occupant to abide by the rules and regulations of the Association and the provisions of the condominium documents, including without limitation, designating the Association as the owner's agent with the authority to terminate any lease agreement and evict the tenants in the event of breach of such covenant, shall be deemed to be included in every lease agreement, whether oral or written, and whether or not specifically expressed in such agreement.

13.7 Fees and Deposits Related to the Lease of Units. Whenever herein the Board's approval is required to allow the lease of a unit, the Association may charge the owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law (currently $100.00 per applicant with husband and wife or parent and child considered one applicant). No fee may be charged for approval of a renewal or extension of a lease with the same lessee. The Association may also require any deposits that are authorized by the Condominium Act as amended from time to time.

13.8 Applicability of Community Documents. All leases of units shall be specifically subject to the Community Documents, and any failure of the lessee to comply with the Community

Documents shall be deemed a default under the lease. As required by the Community Declaration, copies of all leases must be furnished by the unit owner to the Community Association.

14. TRANSFER OF OWNERSHIP OF UNITS: In order to maintain a community of congenial, financially responsible residents with the objectives of protecting the value of the units, inhibiting transiency, and facilitating the development of a stable, quiet community and peace of mind for all residents, the transfer of ownership of a unit shall be subject to the following provisions:

14.1 Forms of Ownership:

(A) One Person. A unit may be owned by 1 natural person who has qualified and been approved as elsewhere provided herein.

(B) Two or More Persons. Co-ownership of units by 2 or more persons is permitted. However, the intent of this provision is to allow flexibility in estate, tax or financial planning, and not to create circumstances where the unit may be used as short-term transient accommodations for multiple families. If the co-owners are other than husband and wife, the Board shall condition its approval upon the designation of 1 approved natural person as "primary occupant". The use of the unit by other persons shall be as if the primary occupant were the only actual owner. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section 14. No more than one such change will be approved in any 12 month period except in the case of the death or incapacity of the primary occupant.

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

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

14.2 Transfers.

(A) Sale or Gift. No unit owner may dispose of a unit or any interest in a unit by sale or gift (including agreement for deed) without prior written approval of the Board of Directors.

(B) Devise or Inheritance. If any unit owner acquires his title by devise or inheritance, his right to occupy or use the unit shall be subject to the approval of the Board of Directors under Section 14.3(A)(2) below. The approval shall not be denied to any devisee or heir who was the prior owner's lawful spouse at the time of death, or was related to the owner by blood or adoption within the first degree.

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

(D) Committee Approval. To facilitate transfers proposed during times when many of the members are not in residence, the Board of Directors may by resolution delegate its approval powers to an *ad hoc* committee, which shall consist of at least 3 members. The Chairman of the committee shall be deemed a Vice-President, and as such shall be empowered to execute Certificates of Approval on behalf of the Association.

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14.3 Procedures.

(A) Notice to Association.

(1) Sale or Gift. An owner intending to make a sale or gift of his unit or any interest therein shall give to the Board of Directors or its designee written notice of such intention at least 20 days before the intended closing date, together with the name and address of the proposed purchaser or donee, a copy of the executed sales contract, if any, and such other information as the Board may reasonably require. The Board may require a personal interview with any purchaser or donee and his spouse, if any, as a pre-condition to approval.

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

(3) Demand. With the notice required in Subsection (A)(1) above, the owner or transferee seeking approval may make a written demand that if the transfer is disapproved, the Association shall furnish an approved alternate purchaser who shall purchase the unit at the same price and upon substantially the same terms as in the

disapproved sales contract, or if no contract is involved, for the fair market value of the unit determined as provided below.

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

(B) Board Action. Within 20 days after receipt of the required notice and all information or interviews requested, or not later than 60 days after the notice required by paragraph (A) above is received, whichever occurs first, the Board shall approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a Certificate of Approval executed by the President or Vice-President of the Association in recordable form and delivered to the transferee. If the Board neither approves nor disapproves within the time limits as set forth above, such failure to act shall be deemed the equivalent of approval and on demand the Board shall issue a Certificate of Approval to the transferee.

(C) Disapproval. The Association's approval shall not be denied unless a majority of the whole Board so votes. If the Board disapproves, then within 30 days after the Board meeting at which the disapproval took place, the Board shall deliver in writing to the owner (hereinafter the "seller") the name of an approved purchaser who will purchase the unit at the same price, and upon substantially the same terms, as in the disapproved sales contract. If no sales contract was involved, or if the Association challenges the contract price as not being a good faith purchase price, then the purchase price shall be paid in cash, and the price to be paid shall be determined by agreement, or in the absence of agreement, shall be the fair market value determined by the arithmetic average of appraisals by 2 state certified property appraisers, one selected by the seller and the other by the Association. The cost of the appraisals, and all other closing costs in the cases where no sales contract is involved, shall be shared equally by the buyer and seller, except that the purchaser shall pay for his own title insurance, and all costs of mortgage financing. Real property taxes and condominium assessments shall be prorated to the day of closing and the parties shall bear their own attorney's fees, if any. The closing shall take place not longer than 60 days after the date of Board disapproval or 30 days after determination of fair market value by appraisal, whichever occurs last. Failure or refusal to close by either party shall constitute a breach of contract and shall entitle the other party to seek specific performance or damages. If the Board fails to deliver the name of the approved purchaser within 30 days as required above, then the original proposed purchase shall be deemed to be approved, despite the Association's former disapproval, and upon demand a Certificate of Approval shall be issued.

14.4 Exception. The provisions of Section 14.1, 14.2 and 14.3 above are not applicable to unit sales by Developer, nor to the acquisition of title by an institutional mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure, nor to the subsequent sale of the unit by the mortgagee.

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

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

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

15.1 By the Unit Owner. Each unit owner is responsible for insuring his own unit, and the personal property therein, including all appliances, air conditioning or heating equipment, water heaters, built-in cabinets, floor, wall and ceiling coverings and electrical fixtures that are located within the unit and are required to be repaired or replaced by the owner, and all alterations, additions and improvements made to the unit or the common elements by the owner or his predecessors in title. Each unit owner is expected to carry homeowner's insurance, with endorsements for leakage, seepage and wind-driven rain, additions and alterations, and loss assessment protection, or recognize that he or she bears financial responsibility for any damage or liability to other owners that would otherwise be covered by such insurance.

15.2 Association Insurance; Duty and Authority to Obtain. The Association through its Board of Directors shall obtain and keep in force the insurance coverage which it is required to carry by law and under the condominium documents, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The names of the insured shall be the Association and the unit owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self-insure.

15.3 Required Coverage. The Association shall maintain adequate insurance covering all of the buildings and the common elements as well as all association property, in amounts determined annually by the Board of Directors, such insurance to afford the following protection:

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

(B) Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross-liability endorsement to cover liabilities of the unit owners as a group to a unit owner.

(C) Statutory Fidelity Bond. As required by law.

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

(A) Flood insurance.

(B) Broad Form Comprehensive General Liability Endorsement.

(C) Directors and Officers Liability.

(D) Medical Payments.

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

(F) Worker's Compensation.

15.5 Description of Coverage. A detailed summary of the coverage included in the master policies, and copies of the master policies, shall be available for inspection by unit owners or their authorized representatives upon request.

15.6 Waiver of Subrogation. If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against the unit owners, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

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

(A) Common Elements. Proceeds on account of damage to common elements shall be held in as many undivided shares as there are units, the shares of each unit owner being the same as his share in the common elements.

(B) Units. Proceeds on account of damage within the units shall be held in undivided shares based on the prorated amount of damage within each damaged unit as a percentage of the total damage within all units.

(C) Mortgagee. If a mortgagee endorsement has been issued as to a unit, the shares of the mortgagee and the unit owner shall be as their interests appear. No mortgagee has the right to require application of insurance proceeds to any mortgage or mortgages which it may hold against a unit or units, unless insurance proceeds on account of damage to the unit are not used for repairs, or the proceeds exceed the actual cost of repairs or reconstruction. Except as otherwise expressly provided, no mortgagee shall have any right to participate in determining whether improvements will be repaired or reconstructed after casualty.

(D) Deductible. The policies may provide for reasonable deductibles. In the case of property insurance, the deductible shall be paid by the party who would be liable for the loss or would be required to pay for the repairs in the absence of insurance. If multiple parties would be responsible, the deductible shall be allocated among them in relation to the amount each party's loss bears to the total.

The foregoing notwithstanding, insurance proceeds on account of NFIP flood insurance policies (if any) covering specific units which were purchased by the Association or various unit

owners shall be used only for the purpose of repairing or replacing the unit to which the respective policy applies and that unit's appurtenant share of the common elements, and no other unit owner or unit may benefit from said proceeds. If the Condominium is not to be restored or rebuilt, the proceeds shall accrue to the benefit of the respective unit owner and his mortgagees, if any.

15.8 Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the unit owners in the following manner:

(A) Costs of Protecting and Preserving the Property. If a person other than the person responsible for repair and reconstruction has properly advanced funds to preserve and protect the property against further damage or destruction, the funds so advanced shall first be repaid, with interest if required.

(B) Cost of Reconstruction or Repair. If the damage for which the proceeds are paid is to be reconstructed or repaired by the Association, the remaining proceeds shall be paid to defray the costs as provided in Section 15.7(A) and (B) above. Any proceeds remaining after defraying costs shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being paid jointly to them.

(C) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided herein that the damages for which the proceeds are paid shall not be reconstructed or repaired, the proceeds on account of that damage shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them.

15.9 Association as Agent. The Association is hereby irrevocably appointed as agent for each unit owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the condominium property.

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

16.1 Damage to Units. Where loss or damage occurs within one or more units, any Association insurance proceeds on account of the loss or damage shall be distributed to the owner(s) of the damaged unit(s) in shares as provided in Section 15.7 above. The owner(s) of the damaged unit(s) shall be responsible for reconstruction and repair and shall bear the burden of the deductible in the same shares as they received the benefits of the Association's coverage.

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

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

(B) If the proceeds of insurance and available reserves are insufficient to pay for the cost of repair and reconstruction of the common elements, the Association, upon determination of the deficiency, shall promptly levy a

special assessment for the deficiency against all unit owners in proportion to their shares in the common elements. Notwithstanding any other provisions of the condominium documents to the contrary, such special assessments need not be approved by the unit owners. The special assessment shall be added to the funds available for repair or restoration of the property.

16.3 "Very Substantial" Damage. As used in this Declaration, the term "very substantial" damage shall mean loss or damage caused by a common occurrence whereby at least 3/4ths or more of the total units cannot reasonably be rendered tenantable within 60 days. Should such "very substantial" damage occur then:

(A) The Board of Directors and the officers, or any of them, are authorized, regardless of any other provision of this Declaration, to take such action as may appear to be reasonably necessary under emergency conditions, as further provided in Section 4.16 of the Bylaws. This authority includes actions to protect life and property, to evacuate or shore up structures and salvage property, to engage security to protect against looting or other criminal acts, and to alter the condominium property or association property as might be reasonable under the circumstances to protect the condominium property or association property from further damage or deterioration. This authority includes the authority to expend any and all available association funds, including reserves.

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

(C) A membership meeting shall be called by the Board of Directors to be held not later than 60 days after the Board has obtained the estimates, to determine the opinion of the membership on reconstruction or termination of the Condominium, subject to the following:

(1) If the insurance proceeds and reserves available for restoration and repair are sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can be accomplished with a special assessment not exceeding 15% of the total annual budget for the year in which the casualty occurred, then the Condominium shall be restored and repaired unless 2/3rds of the total voting interests shall vote for termination, in which case the Condominium shall be terminated.

(2) If upon the advice of legal counsel, it appears unlikely that the applicable zoning or other regulatory laws will allow reconstruction of the same number and general types of units; or if the insurance proceeds, reserves and other association funds available for restoration and repair are not sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can only be accomplished by levying special assessments exceeding 15% of the total annual budget for the year in which the casualty occurred, unless 2/3rds of the total voting interests vote in favor of such special assessment and against termination of the Condominium, it shall be terminated and the property removed from the provisions of the Condominium Act. If the requisite number of unit owners approve reconstruction, the Board of

Directors shall levy the necessary assessments and shall proceed to negotiate and contract for repairs and restoration. The proceeds from the special assessments shall be added to the funds available for repair and restoration of the property.

(D) If any dispute shall arise as to whether "very substantial" damage has occurred or as to the amount of special assessments required, a determination by at least 2/3rds of the Directors shall be conclusive and shall be binding upon all unit owners.

16.4 Application of Insurance Proceeds. It shall be presumed that the first monies disbursed for repair and restoration come first from the insurance proceeds. If there is a balance left in the funds held by the Association after the payment of all costs of repair and restoration, such balance shall be distributed to the owners, except as otherwise provided in Section 15.7(C) above.

16.5 Equitable Relief. If damage to the common elements renders any unit untenantable and the damage is not repaired, reconstructed, or rebuilt within a reasonable period of time, the owner of the untenantable unit may petition a court for equitable relief, which may include a termination of the Condominium and a partition. For the purposes of this provision, it shall be presumed that repair, reconstruction or rebuilding has occurred within a reasonable period of time if substantial work is commenced within 6 months after the occurrence of the damage or destruction and is completed within 9 months thereafter.

16.6 Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original buildings, or according to different plans and specifications approved by the Board of Directors, by the owners of at least 2/3rds of the units, and by the Primary Institutional Mortgagee, if any. Such approvals may not be unreasonably withheld. However, no change in plans and specifications shall materially reduce the interior floor space of any unit without the consent of the affected unit owner and his institutional mortgagee, if any.

17. CONDEMNATION:

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

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

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

17.4 Association as Agent. To the extent permitted by law, 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.

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

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

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

(C) Adjustment of Shares of 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. Such amendment must be approved by a majority of all unit owners if it is not ordered by a governmental entity, and the consent of mortgagees as may be required under Section 718, Florida Statutes, for such amendment.

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

(A) Payment of Award. The award shall be paid to the owner of the unit and to each mortgagee of the unit, the remittance being made payable jointly to the owner and mortgagee(s).

(B) Addition to Common Elements. If possible and practical, the remaining portions of the unit shall become a part of the common elements, and shall be placed in condition for use by some or all unit owners in the manner approved by the Board of Directors.

(C) Adjustment of Shares in Common Elements. The shares of the common elements appurtenant to the units that continue as part of the Condominium shall be adjusted to distribute the ownership of the common elements among the reduced number of unit owners. This shall be done by restating the shares of continuing unit owners in the common elements as percentages of the total of the numbers representing the shares of these as they existed prior to the adjustment. Such amendment must be approved by a majority of all unit owners if it is not ordered by a governmental entity, and the consent of mortgagees is not required for such amendment.

(D) Assessments. If the amount of the award for the taking is not sufficient to pay the fair market value of the condemned unit to the unit owner and to condition the remaining portion of the unit for use as a part of the common elements, the additional funds required for those purposes shall be raised by special assessment against all unit owners who will continue as owners of units after the changes in the Condominium resulting from the taking. The assessments shall be made in proportion to the shares of those owners in the common elements after the changes resulting from by the taking.

(E) Arbitration. If the fair market value of a unit prior to the taking cannot be determined by agreement between the unit owner and the Association within 30 days after notice by either party, the value shall be determined by appraisal in accordance with the following: the unit owner, the first mortgagee, if any, and the Association shall each appoint one state certified real property appraiser, who shall appraise the unit and determine the fair market value by computing the arithmetic average of their appraisals of the unit. A judgment of specific performance upon the fair market value arrived at by the appraisers may be entered in any court of competent jurisdiction. The cost of appraisal shall be paid by the party selecting the appraiser.

17.7 Taking of Common Elements. Awards for the taking of common elements shall be used to make the remaining portion of the common elements usable in a manner approved by the Board of Directors. The balance of such awards, if any, shall be distributed to the unit owners in the shares in which they own the common elements after adjustment of these shares on account of the condemnation. If a unit is mortgaged, the remittance shall be paid jointly to the owner and mortgagee(s) of the unit.

17.8 Amendment of Declaration. Any changes in units and in the common elements, in the ownership of the common elements, and in the sharing of common expenses that are necessitated by condemnation shall be accomplished by amending this Declaration. Such amendment must be approved by a majority of all unit owners if it is not ordered by a governmental entity, and the consent of mortgagees is not required for such amendment.

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

18.1 Agreement. The Condominium may be terminated at any time by written agreement of the owners of at least 3/4ths of the units in the Condominium, and the Primary Institutional Mortgagees.

18.2 Very Substantial Damage. If the Condominium suffers "very substantial damage" to the extent defined in Section 16.3 above, and it is not decided as therein provided that the Condominium will be reconstructed or repaired, the condominium form of ownership of the property in this Condominium will be terminated without agreement.

18.3 Certificate of Termination. The termination of the Condominium by either of the foregoing methods shall be evidenced by a Certificate of Termination, executed by the President or Vice- President with the formalities of a deed, and certifying as to the facts affecting the termination. The certificate shall also include the name and address of a Florida financial institution with trust powers, or a licensed Florida attorney, who is designated by the Association to act as termination trustee, and shall be signed by the trustee including willingness to serve in that capacity. Termination of the Condominium occurs when a Certificate of Termination meeting the requirements of this Section is recorded in the Public Records of Collier County, Florida. The recording of that Certificate of Termination automatically divests the Association and all unit owners of legal title, and

vests legal title in the termination trustee named in the Certificate of Termination, to all real and personal property which was formerly the condominium property or association property, without need for further conveyance. Beneficial title to the former condominium and association property is owned by the former unit owners as tenants in common, in the same undivided share as each owner previously owned in the common elements. Upon termination, each lien encumbering a condominium parcel is automatically transferred to the equitable share in the condominium property attributable to the unit encumbered by the lien, with the same priority.

18.4 Wind-up of Association Affairs. The termination of the Condominium, by itself, does not terminate the Association. The former unit owners and their successors and assigns shall continue to be members of the Association, and the members of the Board of Directors and the officers of the Association shall continue to have the powers granted in the Declaration, and in the Articles of Incorporation and Bylaws, for the purpose of winding up the affairs of the Association in accordance with this Section.

18.5 Trustee's Powers and Duties. The termination trustee shall hold title to the property for the benefit of the former unit owners and their successors, assigns, heirs, devisees, mortgagees and other lien holders, as their interests shall appear. If the former unit owners approve a sale of the property as provided in this Section, the termination trustee shall have the power and authority to convey title to the real property, and to distribute the proceeds in accordance with the provisions of this Section. The termination trustee shall be entitled to charge a reasonable fee for acting in such capacity, and such fee and all costs and expenses incurred by the termination trustee in the performance of its duties shall be paid by the Association or taken from the proceeds of the sale of the former condominium and association property, and shall constitute a lien on the property superior to any other lien. The trustee shall be entitled to indemnification by the Association from any and all liabilities and costs incurred by virtue of acting as termination trustee unless such liabilities are the result of gross negligence or malfeasance. The termination trustee may rely upon the written instructions and information provided by officers, Directors or agents of the Association, and shall not be required to inquire beyond such information and instructions.

18.6 Partition; Sale. Following termination, the former condominium property and association property may be partitioned and sold upon the application of any unit owner. If following a termination, at least 75% of the voting interests agree to accept an offer for the sale of the property, the Board of Directors shall notify the termination trustee, and the trustee shall complete the transaction. In that event, any action for partition of the property shall be held in abeyance pending the sale, and upon the consummation of the sale shall be discontinued by all parties thereto. If the unit owners have not authorized a sale of the former condominium and association property within one year after the recording of the Certificate of Termination, the trustee may proceed to sell the property without agreement by the former unit owners. The proceeds of the sale of any of the property or assets of the Association shall be distributed by the termination trustee to the beneficial owners thereof, as their interests shall appear.

18.7 New Condominium. The termination of the Condominium does not bar creation of another condominium affecting all or any portion of the same property.

18.8 Provisions Survive Termination. The provisions of this Section 18 are covenants running with the land and shall survive the termination of the Condominium until all matters covered by these provisions have been completed. The Board of Directors shall continue to function in accordance with the Bylaws and Articles of Incorporation, and shall have all power to levy assessments necessary to pay the costs and expenses of maintaining the property until sold. The costs of termination, the fees and expenses of the termination trustee, as well as post-termination costs of maintaining the former condominium property, each are common expenses, the payment of

which shall be secured by a lien on the beneficial interest owned by former unit owners, which to the maximum extent permitted by law, shall be superior to, and take priority over, all other liens.

18.9 Termination Incident to Merger of Condominium. The provisions of this Section 18 shall not apply to the termination of the Condominium incident to a merger of the Condominium with one or more other condominiums under Section 24 of this Declaration.

19. OBLIGATIONS OF OWNERS:

19.1 Duty to Comply; Right to Sue. Each unit owner, each tenant, guest and other invitee, and the Association shall be governed by and shall comply with the provisions of the Condominium Act, the condominium documents and the rules and regulations. Actions for damages or for injunctive relief, or both, for failure to comply may be brought by the Association or by a unit owner against:

(A) The Association;

(B) A unit owner;

(C) Anyone who occupies a unit whether as a guest or lessee; or

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

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

19.3 Attorney's Fees. In any legal proceeding arising out of an alleged failure of lessee, unit owner or the Association to comply with the requirements of the Condominium Act, or the condominium documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such attorney's fees as may be awarded by the court including at appellate levels.

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

20. RIGHTS OF MORTGAGEES:

20.1 Approvals. Written consent of the institutional mortgagee of a unit shall be required for any amendment to the Declaration which would decrease the percentage interests of the unit in the ownership of the common elements, except as otherwise may be provided for in Section 718,

Florida Statutes, and as provided in Sections 17.5(C), 17.6(C) and 17.8 above. Such consent may not be unreasonably withheld.

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

20.3 Mortgage Foreclosure. To the extent permitted by law, a mortgagee of a first mortgage of record who acquires title to a condominium parcel by foreclosure of the mortgage, or by a deed given in lieu of foreclosure, shall not be liable for the share of common expenses or assessments attributable to the condominium parcel, or chargeable to the former owner of the parcel, which came due prior to the mortgagee's acquisition of title, unless the payment of the past due amounts was secured by a claim of lien recorded by the Association prior to the recording of the first mortgage. It is acknowledged that as of the date of recording this Declaration, the Condominium Act provides that a first mortgagee who acquires title to a unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid assessments that became due prior to the mortgagee's receipt of the deed, however, the mortgagee's liability is limited to a period not exceeding 6 months or 1% of the original mortgage debt, whichever amount is less. In the event the Condominium Act is amended to reduce the liability of a first mortgagee who acquires title to a unit by foreclosure or deed in lieu of foreclosure, the first mortgagee shall receive the benefit of such reduced liability. Any unpaid share of common expenses not due from the first mortgagee becomes a common expense collectible from all unit owners, including the mortgagee and its successors and assigns. No owner or acquirer of title to a condominium parcel by foreclosure, or by a deed in lieu of foreclosure, whether or not the parcel is occupied, may be excused from the payment of any assessments coming due during the period of such ownership.

20.4 Redemption. If proceedings are instituted to foreclose any mortgage or lien on any unit, the Association, on behalf of one or more unit owners and with the permission of the mortgagee, may redeem the mortgage or lien for the amount due thereon and be thereby subrogated to all of the mortgagee's or lienor's rights of action, or the Association may purchase the unit at the foreclosure sale. A mortgagee shall have an unrestricted, absolute right to accept title to the unit in settlement and satisfaction of the mortgage or to foreclose its mortgage in accordance with its terms, and to bid upon the unit at the foreclosure sale.

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

20.6 Financial Report. Any institutional mortgagee is entitled, upon written request, to a copy of the most recent financial report of the Association.

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

(A) Any delinquency of 60 days or longer in the payment of assessments or charges owned by the owner of any unit on which it holds a mortgage.

(B) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

(C) Any proposed action that requires the consent of a specified percentage of mortgage holders.

20.8 Right to Cover Cost. Developer (until the date unit owners other than Developer elect a majority of the Directors which is known as the "turnover date") and any institutional mortgagee shall have the right, but not the obligation, jointly or singularly, and at their sole option, to pay any of the assessments which are in default and which may or have become a charge against any unit. Further, Developer (until the turnover date) and any institutional mortgagee shall have the right, but not the obligation, jointly or singly, and at their sole option, to pay insurance premiums or fidelity bond premiums on behalf of the Association where, in regard to insurance premiums, the premiums are overdue and where lapses in policies may or have occurred. Developer and any institutional mortgagee paying insurance premiums on behalf of the Association as set forth above shall be entitled to immediate reimbursement from the Association plus any costs of collection, including, but not limited to, legal fees.

21. DEVELOPER'S RIGHTS AND DUTIES: Notwithstanding the other provisions of this Declaration, as long as Developer, or any successor in interest to Developer, holds any units in the Condominium for sale in the ordinary course of business, the following shall apply:

21.1 Developer's Use. Until Developer has completed all of the contemplated improvements and has sold all of the units in the Condominium, neither the unit owners nor the Association, nor their use of the condominium property shall unreasonably interfere with the completion of the contemplated improvements or the sale of units. Developer may make any use of the unsold units and the common elements and association property as may reasonably be expected to facilitate completion of contemplated improvements and sales of units, including, but not limited to, maintaining sales or other offices and/or model units, displaying signs, leasing units (with approval of the Association as provided in Section 13 hereof), and showing units to prospective purchasers.

21.2 Assignment. All or any of the rights, privileges, powers and immunities granted or reserved to Developer in the condominium documents may be assigned by Developer or any successor developer, without the consent of any other unit owner or any holder of a mortgage secured by any unit. In the event of the foreclosure of any mortgage owned by Developer, or deed in lieu of such foreclosure, the person first acquiring title to such interest by reason of such foreclosure, or deed in lieu of foreclosure, shall succeed to all rights, powers, privileges and immunities of Developer.

21.3 Amendments by Developer. Developer has the unilateral right under the Condominium Act to amend this Declaration and any of its exhibits for certain specific purposes. Such amendments may be made and executed solely by Developer and recorded in the Public Records of Collier County, Florida, and without any requirement for securing the consent of any unit owner, the Association, or the owner and holder of any lien encumbering a condominium parcel.

21.4 Sales of Units. Developer shall have the right to sell or transfer ownership of any unit owned by it to any person or entity, on such terms and conditions as Developer deems in its own best interest.

21.5 Transfer of Association Control. As further provided in Section 9.1 of the Bylaws, when unit owners other than Developer elect a majority of the Directors, Developer relinquishes control of the Association, and the unit owners simultaneously assume control. At that time, Developer shall deliver to the Association all property of the unit owners, and of the Association, held or controlled by Developer that Developer is required to turn over to the Association under Florida law. Developer may turn over control of the Association to unit owners other than Developer

prior to the statutory dates, in its sole discretion, by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of unit owners other than Developer to elect Directors and assume control of the Association. Provided that at least 60 days notice of Developer's decision to cause its appointees to resign is given to unit owners, neither Developer, nor such appointees, shall be liable in any manner in connection with the resignations, even if unit owners other than Developer refuse or fail to assume control of the Association.

21.6 Developer's Rights. As long as Developer holds units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by Developer:

(A) Any amendment of the condominium documents which would adversely affect Developer's rights.

(B) Any assessment of Developer as a unit owner for capital improvements.

(C) Any action by the Association that would be detrimental to the sales of units by Developer. However, an increase in assessments for common expenses shall not be deemed to be detrimental to the sales of units.

21.7 Security. THE ASSOCIATION MAY, BUT SHALL NOT BE OBLIGATED TO, MAINTAIN OR SUPPORT CERTAIN ACTIVITIES WITHIN THE CONDOMINIUM DESIGNED TO MAKE THE CONDOMINIUM SAFER THAN IT OTHERWISE MIGHT BE. DEVELOPER SHALL NOT IN ANY WAY OR MANNER BE HELD LIABLE OR RESPONSIBLE FOR ANY VIOLATION OF THIS DECLARATION BY ANY PERSON OTHER THAN DEVELOPER. ADDITIONALLY, NEITHER DEVELOPER, THE COMMUNITY ASSOCIATION, NOR THE ASSOCIATION MAKES ANY REPRESENTATIONS WHATSOEVER AS TO THE SECURITY OF THE PREMISES OR THE EFFECTIVENESS OF ANY MONITORING SYSTEM OR SECURITY SERVICE. ALL UNIT OWNERS AGREE TO HOLD DEVELOPER, THE COMMUNITY ASSOCIATION AND THE ASSOCIATION HARMLESS FROM ANY LOSS OR CLAIM ARISING FROM THE OCCURRENCE OF ANY CRIME OR OTHER ACT. NEITHER THE ASSOCIATION, THE COMMUNITY ASSOCIATION, DEVELOPER, NOR ANY SUCCESSOR DEVELOPER SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE CONDOMINIUM. NEITHER THE ASSOCIATION, THE COMMUNITY ASSOCIATION, DEVELOPER, NOR ANY SUCCESSOR DEVELOPER SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OR SECURITY MEASURES UNDERTAKEN, IF ANY. ALL UNIT OWNERS AND OCCUPANTS OF ANY UNIT, AND TENANTS, GUESTS AND INVITEES OF UNIT OWNERS, ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD OF DIRECTORS, THE COMMUNITY ASSOCIATION AND ITS BOARD OF DIRECTORS, DEVELOPER, OR ANY SUCCESSOR DEVELOPER DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM, IF ANY, DESIGNATED BY OR INSTALLED ACCORDING TO THE GUIDELINES ESTABLISHED BY DEVELOPER, THE COMMUNITY ASSOCIATION, THE ARC OR THE ASSOCIATION MAY NOT BE COMPROMISED OR CIRCUMVENTED, OR THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH UNIT OWNER AND OCCUPANT OF ANY UNIT AND EACH TENANT, GUEST AND INVITEE OF A UNIT OWNER, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, THE COMMUNITY ASSOCIATION AND ITS BOARD OF DIRECTORS, THE ARC, DEVELOPER, OR ANY SUCCESSOR DEVELOPER ARE NOT INSURERS AND THAT EACH UNIT OWNER AND OCCUPANT OF ANY UNIT AND EACH TENANT, GUEST, AND INVITEE OF THE UNIT OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT THE

ASSOCIATION, ITS BOARD OF DIRECTORS, THE COMMUNITY ASSOCIATION AND ITS BOARD OF DIRECTORS, THE ARC, DECLARANT AND ANY SUCCESSOR DECLARANT, DEVELOPER, OR ANY SUCCESSOR DEVELOPER HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY UNIT OWNER OR OCCUPANT OF ANY UNIT, OR ANY TENANT, GUEST OR INVITEE OF A UNIT OWNER RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED, IF ANY, OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE CONDOMINIUM, IF ANY.

22. AMENDMENT OF DECLARATION. Except as otherwise provided elsewhere above as to amendments made by Developer, all amendments to this Declaration shall be proposed and adopted in the following manner:

22.1 Proposal. Amendments to this Declaration may be proposed by the Board of Directors, or by written petition to the Board signed by the owners of at least 1/4th of the units.

22.2 Procedures. Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the members not later than the next annual meeting for which proper notice can be given.

22.3 Vote Required. Except as otherwise provided by law, or by specific provision of the condominium documents, or except where a greater percentage vote is required by this Declaration for a certain action (in which case such greater percentage shall also be required to effectuate an amendment) (e.g., Section 9.12 herein), this Declaration may be amended by concurrence of at least 2/3rds of those voting interests who are present, in person or by proxy, and voting at any annual or special meeting called for the purpose. The foregoing notwithstanding, prior to assumption of control of the Association by unit owners other than Developer, this Declaration may be amended by vote of a majority of the Directors, except as otherwise provided by law.

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

22.5 Proviso. An amendment to this Declaration may change the configuration or size of any unit in a material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the unit owner shares the common expenses of the condominium and owns the common surplus of the condominium, only if the record owner of the unit, his institutional mortgagee, if any, and the owners of at least a majority of the total voting interests of the condominium, consent to the amendment, unless same is required by a governmental entity. This proviso does not apply to changes in ownership shares necessitated by condemnation or a taking by eminent domain under Section 17 above.

22.6 Rights of Developer; Institutional Mortgagees; South Florida Water Management District. No amendment shall be passed which shall materially impair or prejudice the rights, interests or priorities of Developer, the Association or any institutional mortgagee under this Declaration and the other condominium documents without the specific written approval of Developer, the Association and any institutional mortgagees materially affected thereby. The consent of such institutional mortgage may not be unreasonably withheld. In addition, any amendment that would affect the surface water management system, including the water

management portions of the common elements, if any, must have the prior approval of South Florida Water Management District.

22.7 Amendments Required by Secondary Mortgage Market Institutions. Notwithstanding anything contained herein to the contrary, Developer, without the consent of the unit owners, may file any amendment which may be required by an institutional mortgagee for the purpose of satisfying its Planned Unit Development criteria or such criteria as may be established by such mortgagee's secondary mortgage market purchasers, including without limitation, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; provided, however, that any such Developer-filed amendments must be in accordance with any applicable rules, regulations and other requirements promulgated by the United States Department of Housing and Urban Development.

23. **COMMUNITY ASSOCIATION**. By taking title to a unit in the Condominium, each unit owner becomes subject to the terms and conditions of the Community Declaration as it may be amended from time to time.

23.1 Membership in the Community Association. Each unit owner shall be a member in the Community Association, which membership shall carry such rights and obligations, and be exercised in such manner, as is more fully set forth in the Governing Documents. The membership cannot be sold, conveyed or assigned separately from the unit.

23.2 Voting in the Community Association. As provided in Section 23.1 above, all unit owners in this Condominium are automatically members of the Community. Notwithstanding such membership, only authorized representatives of the members shall be entitled to vote on behalf of the members of the Community Association. At Community Association meetings, the votes shall be cast as provided in the Community Association Bylaws.

24. MERGER. The Condominium may be merged with one or more condominiums to form a single condominium upon the affirmative vote of the owners of at least a majority of the units in the condominium, and the approval of all record owners of liens on units in the condominium, and upon compliance with all other governing provisions of the Condominium Act. Notwithstanding the foregoing, for so long as Developer holds units for sale in the condominium in the ordinary course of business, the Developer must consent in writing to the merger, except as may otherwise be provided by Section 718.301.

25. MISCELLANEOUS.

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

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

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

25.4 Interpretation. The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly

unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.

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

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

25.7 Headings. The headings used in the condominium documents are for reference purposes only, and do not constitute substantive matter to be considered in construing the terms and provisions of these documents.

25.8 Rule Against Perpetuities. In the event any court should hereafter determine any provisions as originally drafted herein in violation of the rule of property known as the Arule against perpetuities@ or any other rule of law because of the duration of the period involved, the period specified in this Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rule of law, and for such purpose.

IN WITNESS WHEREOF, Developer has executed this Declaration the day and year first above written.

Signed in the presence of:

Carrie J. Filthaut
Witness
CARRIE J. FILTHAUT
Printed Name of Witness

Karen C. Stevenson
Witness
Karen C. Stevenson
Printed Name of Witness

LB/P-Groveway, LLC, A Delaware limited liability company

By: GroveWay Development, L.C., its Operating Member and Authorized Signatory

By: G. Stuart Wood
Name: G. Stuart Wood
Its: Managing Member

COLLIER COUNTY COPY CLERK OF THE CIRCUIT COURT

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 3 day of Sept 2004, by G. Stuart Wood, as Managing Member of GroveWay Development, L.C., Operating Member and Authorized Signatory of LB/P - Groveway, LLC, a Delaware limited liability company, who X is personally known to me or ____ produced _____ as identification.

Karen C Stevenson
My Commission DD064590
Expires October 14, 2005

(SEAL)

Karen C Stevenson
Signature of Notary Public-State of Florida

Karen C. Stevenson
Print Name of Notary Public