

Prepared by and Return to:

Leland W. Wilson
Association Legal Services
12600 World Plaza Ln # 63
Fort Myers, FL 33907

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**CERTIFICATE OF AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM AND BYLAWS OF
MARSH LANDING TOWNHOUSE CONDOMINIUM IX ASSOCIATION, INC.**

WHEREAS, this Amendment is made this 16th day of June, 2025 to the Amended Declaration of Condominium and Bylaws of MARSH LANDING TOWNHOUSE CONDOMINIUM IX ASSOCIATION, INC., (the "Association"). The original Declaration and Bylaws were recorded at Official Records Book 3088, Page 2854, *et seq.*, of the Public Records of Lee County, Florida.

WHEREAS, the Restatements of the Amended Declaration of Condominium and Bylaws, are recorded as an exhibit hereto; and

WHEREAS, at a duly called annual meeting of MARSH LANDING TOWNHOUSE CONDOMINIUM IX ASSOCIATION, INC., on the 13th day of June, 2025 at which a quorum was present, two-thirds (2/3rds) of the votes cast by Members approved the Restatements, 9 for and 0 against, to the Amended Declaration of Condominium and Bylaws as required hereinafter set forth; and

NOW, THEREFORE, the undersigned hereby certify that the following Amendments to the Amended Declaration of Condominium and Bylaws, are a true and corrected copy of the Restatements as accepted by the membership.

SEE ATTACHED

WITNESS my signature hereto this 13th day of June, 2025,

MARSH LANDING TOWNHOUSE CONDOMINIUM IX ASSOCIATION, INC.

By: MV Chiapel
Mary Virginia Chiapel
President

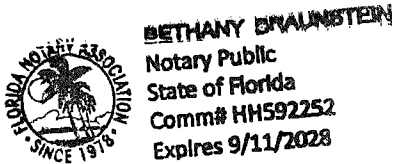
[Signature]
Witness Name: Yuri De los Santos

[Signature]
Witness Name: Shervi Gray

STATE OF FLORIDA)
) SS:
 COUNTY OF LEE)

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 13th day of June, 2025, by Ginny Chiapel, President of MARSH LANDING TOWNHOUSE CONDOMINIUM IX ASSOCIATION, INC., a Florida not for profit corporation, on behalf of the corporation. She is ☒ personally known to me or _____ has produced _____ as identification.

Seal:



Bethany Braunstein
 Printed Name of Notary Public

Bethany Braun
 (Signature of Notary Public)

By: Annette M. Bitner

Annette Bitner
 Secretary /Treasurer

Katherine M. Whipple
 Witness Name: Katherine M. Whipple

Robert L. Bitner
 Witness Name: Robert L. Bitner

New York
 STATE OF FLORIDA)
) SS:
 COUNTY OF LEE Erie)

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 30 day of July, 2025, by Annette Bitner, Secretary/Treasurer of MARSH LANDING TOWNHOUSE CONDOMINIUM IX ASSOCIATION, INC., a Florida not for profit corporation, on behalf of the corporation. She/He is _____ personally known to me or _____ has produced FIA DRIVER LIC as identification.

DANA CICERO
 Printed Name of Notary Public

Dana M Cicero
 (Signature of Notary Public)

Seal:

DANA M CICERO
 NOTARY PUBLIC STATE OF NEW YORK
 ERIE
 LIC. #01C16037237
 COMM. EXP. 02/14/ 2026

Prepared by and return to:

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**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR MARSH LANDING
TOWNHOUSE CONDOMINIUM IX ASSOCIATION, INC.**

(SUBSTANTIAL REWORDING OF DECLARATION AND BYLAWS. PLEASE SEE ORIGINAL
DECLARATION AS RECORDED IN OFFICIAL RECORD BOOK 3088, AT PAGE 2854, ET. SEQ; AS
PRESERVED BY INSTRUMENT NO. 2022000121494, AND AS MAY BE AMENDED IN THE
PUBLIC RECORDS OF LEE COUNTY, FLORIDA).

1. **RESUBMISSION TO CONDOMINIUM OWNERSHIP.** This Amended and Restated Declaration of Condominium (hereinafter, the "Declaration") is made by Marsh Landing Townhouse Condominium IX Association, Inc., a Florida Corporation not for profit, hereinafter the "Association". The land subject to this Declaration and the improvements located thereon have already been submitted and are hereby re-submitted to condominium Ownership and use pursuant to Chapter 718, Florida Statutes (the "Condominium Act"), as it is amended from time to time. No additional property is being submitted to condominium ownership by this Declaration. The covenants and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future Owners of Condominium Units. The acquisition of title to a Unit or any other interest in the Condominium Property, or the Lease, Occupancy, or use of any portion of a Unit or the Condominium Property, constitutes an acceptance and ratification of all provisions of this Declaration as amended from time to time, and an agreement to be bound by its terms.
2. **CONDOMINIUM NAME AND ADDRESS.** The name by which this Condominium is identified is "Marsh Landing Townhouse Condominium IX Association, Inc.", and its street address is as listed with the Florida Department of State Division of Corporations.
3. **DESCRIPTION OF CONDOMINIUM PROPERTY.** The land and improvements thereon were submitted to the condominium form of ownership by the original Declaration (the "Land"), and as legally described in Exhibit "A" to the original Declaration and as previously amended, which is hereby incorporated by reference.
4. **UNIT IDENTIFICATION.** The identification of each Unit shall be numeric or alphanumeric and are indicated on the Plats previously recorded and as amended from time to time. All conveyances of Condominium Parcels shall contain legal descriptions based upon the originally recorded Declarations of Condominium, as specified in the Recitals of this Declaration, and as the same have been subsequently amended, including amendments contained in this Declaration, and any future amendments or the exhibits.

5. DEFINITIONS. As used in this instrument or elsewhere in the other Governing Documents, unless otherwise provided, the terms used are as defined in the Condominium Act and as set forth below:

- 5.1. "Act" or "Condominium Act"** means the Condominium Act (Chapter 718, Florida Statutes), as it now exists or as it may be amended from time to time, including the definitions therein contained.
- 5.2. "Apartment"** shall be synonymous with "Unit".
- 5.3. "Assessment"** means the proportionate share of the funds required for the payment of Common Expenses that is assessed against an Owner from time to time.
- 5.4. "Association"** means Marsh Landing Townhouse Condominium IX Association Inc., a Florida corporation not-for-profit, which is the corporate entity responsible for the operation of the Condominium.
- 5.5. "Association Property" or "Condominium Property"** mean any real property owned by the Association, including any Improvements located thereon, and all personal property owned by the Association.
- 5.6. "Board of Directors" or "Board" or "Directors"** mean the representative body which is responsible for the administration of the Association's affairs, and which is the same body that is sometimes referred to in the Act as the "Board of Administration."
- 5.7. "Bylaws"** means the Bylaws of the Association as they may be amended from time to time in accordance with the provisions thereof and of this Declaration.
- 5.8. "Common Elements"** means and includes:

The portions of the Association Property not included within the Units.

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

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

The property and installations required for the furnishing of utilities and other services to more than one (1) Unit or to the Common Elements.

Any other parts of the Association Property designated as Common Elements in this Declaration, including all riparian and littoral rights to any submerged lands that are part of, or border, the Association Property.

- 5.9. "Common Expenses"** means those expenses for which Owners are liable to the Association, including, but not limited to, expenses of administration, Maintenance and operation of the Association and such other expenses as may be declared Common Expenses either by this Declaration, the Articles of Incorporation, the Bylaws or by the Board of Directors.
- 5.10. "Common Surplus"** means the excess of all receipts of the Association, including, but not limited to, Assessments, rents, profits and revenues on account of the

Common Elements, above the amount of the Common Expenses. Common Surplus shall be owned in the same undivided percentages as Common Elements are owned.

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

5.12. "Declaration" or "Condominium Declaration" means this instrument, and as it may be amended from time to time in accordance with the provisions hereof and of the Act.

5.13. "Family" or "Single Family" means any one (1) of the following:

One (1) natural Person, their spouse, if any, and the Persons parents, grandparents, grandchildren, siblings, or children (related by blood, marriage or adoption), who do and plan to indefinitely and continuously reside together as a single financially and socially interdependent housekeeping Unit, with the intention of living within the bonds of family.

Not more than two (2) natural Persons not meeting the requirement above, who do and plan to indefinitely and continuously reside together as a single financially and socially interdependent housekeeping Unit, with the intention of living within the bonds of family and their respective parents, grandparents, grandchildren, siblings, or children (related by blood, marriage or adoption).

The reference to "natural" is intended to distinguish between an individual and a corporation, partnership, limited liability partnership, limited liability company, trust, estate, or other artificial entity. A "Family Member" is a natural Person who resides in a Unit as part of the Owner's Family or as part of the Family of a Tenant or a Guest, but, in each case, is not a title holder.

5.14. "Governing Documents" means this Declaration, the Articles, the Bylaws and any Rules and Regulations adopted by the Board, as amended from time to time.

5.15. "Guest" means any natural person who is not the Owner or a Tenant or a Family Member of such Owner or such Tenant, who is physically present on or Occupies the Association Property on a temporary basis at the expressed or implied invitation of the Owner or other legally permitted Occupant, without the payment or existence of consideration.

5.16. "Hurricane Protection" means hurricane shutters, impact glass, code-compliant windows or doors, and other code compliant hurricane protection products used to preserve and protect the Condominium Property or Association Property.

5.17. "Improvements" means all structures and artificial changes to the natural environment (exclusive of landscaping) located on the Association Property.

5.18. "Institutional Mortgagee" means the mortgagee (or its assignee) of a mortgage encumbering a Condominium Parcel, which mortgagee is a bank, savings and loan association, mortgage company, insurance company, real estate or mortgage investment trust, pension or profit-sharing trust, the Federal Housing Administration, the Veterans Administration, or any other institutional lender providing financing of acquisition,

development or construction, or any agency of the United States of America. The term also refers to any holder of a mortgage against Condominium Parcel, which mortgage is guaranteed or insured by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private corporation engaged in the business of purchasing, guaranteeing or insuring residential mortgage loans, and their successors and assigns.

- 5.19. **“Invitee” or “Licensee”** means a person expressly or impliedly allowed entry onto the Association Property for the purpose of conducting business with or providing services to a Unit or an Occupant, or otherwise entering the Association Property on a temporary basis at the expressed or implied consent of the Owner or the Occupant, including, but not limited to, contractors, workmen, delivery persons, domestic assistants and health care assistants. A Guest and a Licensee are each an Invitee.
- 5.20. **“Lease” or “Leasing” or “Rent”** when used in the context of the renting of Units, means the grant by an Owner of a right of use of the Unit for consideration. Leasing shall be construed to include any licensing or other arrangement with a third party where persons other than the Unit Owner are permitted to Occupy the Unit for the payment of consideration to any party. Any person who qualifies as a Tenant shall be deemed to be Leasing a Unit.
- 5.21. **“Lien for Charges”** means a lien which is recorded to secure a Charge.
- 5.22. **“Limited Common Elements”** Limited Common Elements mean and include those Common Elements which are reserved for the use of a particular Unit or Units to the exclusion of other Units, which shall include but not be limited to, individual heating and cooling units, compressors, entry walkway and entry gate and terrace screening and roof on covering individual Units.
- 5.23. **“Maintenance” or “Maintain”** means, unless the context of a provision in the Governing Documents requires otherwise, landscaping, day-to-day cleaning, heavy cleaning, painting where applicable, routine maintenance, ongoing maintenance, preventative maintenance, as well as repair or replacement. The term "Maintenance" does not include repair after casualty, unless the context of a provision in the Governing Documents requires otherwise. Whenever a Unit Owner is obligated by the Governing Documents or law to Maintain, repair, or replace portions of the Association Property, the Board has the authority to establish reasonable standards for such maintenance, repair, or replacement, including mandating Maintenance, repair, or replacement of said items, when the Board deems same are reasonably necessary, and the Board may likewise adopt specifications for replacement components, without need for Owner approval, notwithstanding any provision in this Declaration to the contrary.
- 5.24. **“Master Association”** means Marsh Landing Community Association at Estero, Inc., a not for profit Florida corporation, and its successors being the entity responsible for the Maintenance and operation of the recreational facilities and other common areas as defined in the Master Covenants.
- 5.25. **“Master Declaration”** means the Declaration of Covenants and Restrictions for Marsh Landing Community Association at Estero, Inc., dated July 15, 1996 and recorded in Official Records Book 2725, Page 664, Public Records of Lee County, Florida, and as Amended by time to time, and Preserved under Instrument No. 2022000121494 on April

12, 2022, and when the context permits, shall also mean the Articles of Incorporation and Bylaws of the Master Association, all as now or hereafter amended, modified or supplemented; and the definitions contained therein shall be incorporated herein as the context may require or admit.

- 5.26. **“Master Documents”** means the Master Declaration and all supplements or amendments thereto, the Articles of Incorporation and Bylaws of the Master Association, the Rules and Regulations of the Master Association, and all of the instruments and documents referred to or incorporated therein or attached thereto, as the same may be amended from time to time.
- 5.27. **“Member”** shall mean and refer to an Owner, as hereafter defined, who is a Member of the Association as provided herein.
- 5.28. **“Neighborhood Association”** as such term is defined in the Master Declaration, shall mean and refer to any home owners, property owners, or Condominium Association within the Marsh Landing Community having responsibility for a Neighborhood. **“Neighborhood”** shall mean and refer to any group or similar product within the development governed by its own Association.
- 5.29. **“Occupant”** when used in connection with a Unit, means a person who is physically present in a Unit for two (2) or more consecutive days, including staying overnight for at least one (1) night.
- 5.30. **“Occupy” or “Occupying”** when used in connection with a Unit, means the act of staying in the Unit for two (2) or more consecutive days, including an overnight stay of at least one (1) night.
- 5.31. **“Officer”** means the executive Officers and assistant Officers (if any) appointed by the Board as provided in the Bylaws.
- 5.32. **“Resident”** means any natural person who is Occupying a Unit for thirty (30) days or more, whether or not consecutive, in any calendar year and includes, as applicable, Owners, Tenants, Guests, and their respective Family members who reside in the Unit for such period.
- 5.33. **“Rules and Regulations”** means the current Rules and Regulations of the Association, as they may be amended from time to time in accordance with the provisions thereof, of the Act, the Articles, the Bylaws, and of this Declaration, together with such additional Rules and Regulations from time to time promulgated by the Board, concerning the transfer, use, appearance, Maintenance, and Occupancy of the Units, Common Elements, Limited Common Elements, and Association Property, and the administration and operation of the Association, subject to any limitations contained in the Act, the Articles, the Bylaws, or this Declaration.
- 5.34. **“Tenant” or “Licensee” or “Lessee”** means a natural person Occupying a Unit, other than the Owner, whether pursuant to a verbal or written agreement, where said Occupancy by such person involves the payment or existence of consideration, including, but not limited to, the payment of money, the exchange of goods or services, or the provision of direct economic or indirect economic benefit, including tax benefits and the furtherance of

business interests, including, but not limited to, use of a Unit as an employee, supplier, or customer rewards or incentive, or a charity auction or similar prize.

- 5.35. **“Unit”** means part of the Association Property that is subject to exclusive ownership as described in this Declaration. Whenever the term “Unit” is used in the Governing Documents, it shall be deemed to include improvements appurtenant to and for the exclusive use or benefit of such Unit, which may include the Parcel and certain Improvements thereon, except where the context clearly requires otherwise.
- 5.36. **“Unit Owner” or “Owner”** means the record owner of a Condominium Parcel. Wherever a portion of the Governing Documents, including the Rules and Regulations, proscribes, restricts, prohibits, governs or requires that a Unit Owner take or refrain from taking any action, or engage or refrain from engaging in any conduct, or providing for liability to the Association arising from such acts or conduct or the failure to take required action or engage in required conduct, the term "Unit Owner" is deemed to include, unless the context specifically suggests otherwise, the Unit Owner's Family, Tenants, Residents, Guests, Invitees, and as may be applicable, the Family Members of such persons, as well as employees or agents of such persons.
- 5.37. **“Utility” or “Utility Services”** as used in the Act and as construed with reference to this Association, and as used in the Governing Documents, includes but is not limited to, potable water, irrigation, electric power, gas, hot and cold water, heating, refrigeration, video and Communication Services (including, but not limited to, cable, satellite or other television, telephone or other voice services, and wi-fi or any other internet or computer service), air conditioning, garbage disposal, and sewage disposal.
- 5.38. **“Voting Certificate”** means a document which designates one (1) of the record title Owners, or the corporate partnership, or entity representative, who is authorized to vote on behalf of a Unit that is owned by more than one (1) Owner or by any entity.
- 5.39. **“Voting Interests”** means the arrangement established in the Governing Documents by which the Owners of each Unit collectively are entitled to one (1) vote per Unit.
6. **CONDOMINIUM UNITS AND APPURTENANCES.** Condominium Units are those cubicles of space and all Improvements constructed therein identified and described in the Plats. Said boundaries are as follows:
- 6.1. **Horizontal Boundaries.** The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the perimetrical boundaries.

6.1.1. Upper Boundaries.

- 6.1.1.1. The upper boundary of first-floor Units shall be horizontal plane of the lower surface of the unfinished ceiling slab of the Unit and the horizontal plane of the unfinished horizontal plane of the lower surface of the unfinished lanai ceiling slab extended to an intersection with the perimetrical boundaries.
- 6.1.1.2. The upper boundary of the second-story Units shall be the sloped and horizontal planes of the unfinished ceiling extended to an intersection with each other and with the perimetrical boundaries.

6.1.1.3. The upper boundary of the portion of the Units comprising the lanai shall be the plane of the lowest surface of the unfinished lanai ceiling.

6.1.2. Lower Boundaries. The lower boundary of all Units shall be the horizontal plane of the unfinished floor slab of that Unit and the horizontal plane of the unfinished lanai slab extended to an intersection with the perimetrical boundaries.

6.2. Perimetrical Boundaries. The perimetrical boundaries of a unit shall be the following boundaries extended to an intersection with upper and lower boundaries.

6.2.1. Exterior Building Walls. The intersecting vertical planes of the innermost unfinished surfaces of the exterior wall of the building bounding such Unit and as to the lanai which is part of a home, such boundary shall be the intersecting vertical planes which include all of such structures.

6.2.2. Interior Building Walls. The vertical planes of the innermost unfinished surface of the party walls dividing each Unit's extended to intersections with other perimetrical boundaries.

6.3. Apertures. Where there are apertures in any boundary, including, but not limited to, windows and doors, such boundaries shall be extended to include the interior unfinished surfaces of such apertures, including all frameworks thereof. Exterior surfaces made of glass or other transparent material, including screening, and all framing and casings therefore, shall be included in the boundaries of the Unit.

6.4. Air Conditioning Units. The boundaries of each Unit shall also be deemed to include all integral parts of the air conditioning unit located with the Unit.

6.5. Air Space. An exclusive easement for the use of the airspace occupied by the condominium unit as it exists at any particular time and as the Unit may lawfully be altered.

6.6. Boundaries Further Defined. The Unit shall not be deemed to include utility services which may be contained within the boundaries of the Unit, but which are utilized to serve Common Elements and/or a Unit or Unit other than or in addition to the Unit within which contained. Such utility services are not Common Elements, but may be the Maintenance responsibility of the Association. The Unit shall not be deemed to include columns or partitions contributing to the support of the building. Such columns or partitions are part of the Common Elements.

6.7. Conflict. In cases not specifically covered in this Article or in any case of conflict or ambiguity, the graphic depictions of the Unit boundaries set forth in the original Survey and Plot Plan Exhibits to the original Declarations shall control in determining the boundaries of a Unit.

7. EASEMENTS. Each Unit and the Common Elements shall be subject to existing easements for public utilities purposes, and the utilities and applicable governmental agencies having jurisdiction thereover and their employees and agents shall have the right of access to any Unit or the Common Elements in furtherance of such easements. The easement areas contained in any Unit, whether shown on any plat, shall always be properly Maintained by the Owner whether the utility company properly Maintains the easements area.

- 7.1. **Support.** Each Unit has an easement of support and of necessity and is subject to an easement of support and necessity in favor of all other Units and the Common Elements.
- 7.2. **Utilities.** Easements through the Units and other Common Areas for conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services to other Units and the Common Elements provided, however, that such easements through a Unit shall be only according to the plans and specifications for the Building or as the Building is constructed unless approved in writing by the Unit Owners.
- 7.3. **Ingress and Egress.** Non-exclusive easements shall exist for pedestrian traffic over, through and across sidewalks, paths, walks, and other portions of the Common Elements as may be from time to time intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements as may from time to time be paved and intended for such purposes, and such easement shall be for the use and benefit of the Unit Owners and all those claiming by, through or under the aforesaid; provided, however, nothing herein shall be construed to give or create in any person the right to park any vehicle upon any portion of the Association Property except an area specifically designated and assigned for such purposes.
- 7.4. **Encroachments.** If any Unit encroaches upon any of the Common Elements or upon any other Unit for any reason other than the intentional act of the Unit Owner, or if any Common Element encroaches upon any Unit, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.
- 7.5. **Maintenance, Repair, and Replacement.** Easements exist through, over and beneath the Units and Common Elements for Maintenance, repair, and replacement of the Units and Common Elements. Such access to the Units shall be only during reasonable hours, except that access may be had at any time in case of emergency.
- 7.6. **Troughs and Gutters.** There shall be easements for overhanging troughs and gutters, downspouts and the discharge therefrom of rainwater and the subsequent flow thereof over the Units, Common Elements and Limited Common Elements.
- 7.7. **Additional Easements.** The Board has the authority, without the joinder of any Unit Owner, to grant, modify, vacate or move any easement if the easement constitutes part of or crosses the Common Elements or Association Property.
- 7.8. **Common Elements.** There shall be appurtenant to each of the Units, equal ownership of the Common Elements of the Association. The Common Elements include the land and all other parts of the Association Property not within a Unit, unless otherwise provided herein. The Common Elements shall include, but are not limited to, the property on which the Units are located and specifically includes but is not limited to the land, roof, main walls, slabs, stairways, walkways, lamp posts, gardens, pumps, fire sprinkler system, generators, water tanks, trees and shrubs, utility lines, guest parking facilities, if any such items are a part of the condominium property, and unless otherwise provided herein.
- 7.9. **Limited Common Elements.** Certain Common Elements have been or may be designated as Limited Common Elements, reserved for the use of a particular Unit or Units, to the

exclusion of the other Units. The Limited Common Elements and the Units to which their use has been assigned are as described in this Declaration and as further identified in the original survey and plot plan.

7.10. Owner's Easement of Enjoyment. Every Owner shall have a right and non-exclusive easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Unit subject to the following provisions:

7.10.1. The right of the Association to establish, modify, amend, and rescind reasonable Rules and Regulations regarding use of the Common Area;

7.10.2. The right of the Association to dedicate or transfer all or any part of the Common Area to public agency, authority, or utility as provided by its Articles;

7.10.3. The right of the Association to open the Common Area for use by non-Members of the Association;

7.10.4. The right of the Association to approve Guests before they can use the facilities.

8. VOTING RIGHTS; OWNERSHIP OF COMMON ELEMENTS AND COMMON SURPLUS.

The ownership of Common Elements and Common Surplus within the Association shall be a pro rata share for each Unit based on the total number of Condominium Units. Each Unit in the Condominium shall have a 1/12th undivided share in the Common Elements and in any Common Surplus. Voting rights may be suspended pursuant to the terms of the Governing Documents and Florida law. Suspension of voting rights shall not affect the basis on which Common Expenses are shared or on which Common Elements and Common Surplus owned. However, suspended Voting Interests are subtracted from the total number of votes required when calculating any required vote or quorum during the period for which said Voting Interest is suspended. The undivided share of ownership of the Common Elements and Common Surplus appurtenant to a Unit cannot be conveyed or separately hypothecated. As long as the Condominium exists, the Common Elements cannot be partitioned. The shares in the funds and assets of the Association cannot be assigned, pledged or transferred by an Owner except as an appurtenance to the Units.

8.1. Membership in Association. All of the record Owners of Units in the Condominium shall be Members of the Association, and no Owner shall have more than one membership in the Association with respect to any Unit. Memberships in the Association shall not be assignable, except to the successor-in-interest of the Owner's Unit, and every membership of any Owner in the Association shall be appurtenant to and inseparable from ownership of his Unit. Ownership of such Unit shall be the sole qualification for membership of any Owner in the Association.

8.2. Unit Owner's Rights. Each Owner is entitled to the exclusive use and possession of their Unit. They shall be entitled to use the Common Elements in accordance with the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of other Owners. There shall be a joint use of the Common Elements and a joint and mutual easement for that purpose is hereby created.

8.3. Voting. Each Unit shall be entitled to one (1) vote to be cast by its Owner in accordance with the provisions of the Bylaws.

8.4. Voting Certificate. Where a Unit is owned by more than one (1) person, or by a corporation, a partnership, or by some other entity, the vote for such Unit shall be cast by a person named in a Voting Certificate signed by all of the Owners of the Unit, if owned by individuals, or signed by the President and Secretary of the corporation owning the Unit, or signed by any general partner of any partnership owning the Unit, or signed by any other person empowered to act in behalf of any other entity owning the Unit. The person named in the certificate to exercise the Voting Interest of the Owner or Owners of the Unit must be an individual Owner of the Unit or must be an officer, director or other duly authorized agent of the corporation, partnership or other entity owning the Unit. The Voting Certificate shall be filed with the Secretary of the Association, and shall have attached to it a copy of the corporate, partnership, or other entity resolution authorizing the person executing the certificate to execute the certificate on behalf of the entity owning the Unit, and certifying that the person to whom the certificate is directed is an officer, director or other duly authorized agent of the entity owning the Unit. Such certificate shall be valid until revoked by a Unit or a subsequent certificate. If such certificate is not on file, the vote of such Owners shall not be considered in determining the requirements for a quorum nor for any other purpose.

8.5. Approval or Disapproval of Matters. Whenever the decision of an Owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such Owner at an Association meeting, unless the joinder of record Owners is specifically required by this Declaration.

9. MAINTENANCE, ALTERATION, AND IMPROVEMENTS. Responsibility for the Maintenance of the Association Property, and restrictions upon the alteration and Improvement thereof, shall be as follows:

9.1. By Association. The Association shall operate, Maintain, repair, and replace, as a Common Expense:

9.1.1. Support. All portions of a Unit, except interior surfaces not contributing to the support of the apartment buildings, which portion shall include but not be limited to, the outside walls of the apartment building and all fixtures on the exterior thereof, boundary walls of Units, floor and ceiling slabs, and load-bearing columns and load bearing walls. The Association may choose to paint the outside facing portion of the Owners front doors, any marks or damage shall be rectified by the Owner.

9.1.2. Structural. The conduits, ducts, plumbing, wiring, and other facilities, installations or equipment serving the Common Elements or more than one (1) Unit.

9.2. Additions, Alterations, or Improvements by the Association. There shall be no material alterations or substantial additions to the Common Elements or Association Property, except as authorized by the Board. Provided, however, that if any material alteration or substantial addition requires the expenditure of more than five percent (5%) of the Association's annual budget, including reserves, for the year in which the work is to be done, the Board shall obtain approval of a majority of Voting Interests present, in person or by proxy, at an Association meeting or by written agreement of a majority of the entire Voting Interests. Maintenance of the Common Elements, regardless of the level of expenditure, is the responsibility of the Board.

9.3. Incidental Damage. 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 unless the need for the work was caused by the Unit Owner. Regardless of the foregoing, the Association shall not be responsible for incidental damage to any alteration or addition to the Common Elements made by a Unit Owner.

9.4. By Unit Owner. Each Unit Owner shall operate, Maintain, repair, and replace, at the Unit Owner's expense:

9.4.1. Maintenance. To Maintain, repair and replace at their expense all portions of their Unit (except the portions to be Maintained, repaired, and replaced by the Association), which portion shall include but not be limited to, individual heating and cooling units including compressors which are hereby designated as Limited Common Elements together with screening, all glass windows and doors servicing the Unit exclusively, even if located outside the units boundary, and garage doors, entry walkway and gate entrance even if located outside the Unit on Common Element property if it services only one unit; and the repair or replacement of screening and screening supports on Owners individual terrace even if same are not part of the Unit but constitute Limited Common Elements unless covered by condominium insurance policy.

9.4.2. Utilities. Electrical, mechanical, and plumbing lines, pipes, fixtures, switches, valves, drains and outlets (including connections), and irrigation or drainage lines and fixtures serving only one (1) Unit.

Unit Owners shall replace their water heater with a new unit every ten (10) years from the manufacturing date as shown on the tank, and if unavailable, date of installation with proof. It is recommended that existing water heaters that have reached ten (10) years of age as of the effective date of this provision shall be replaced within sixty (60) days after the effective date of this provision and written notice of the applicability of this provision from the Association. The failure to do so shall create a rebuttable presumption that the Unit Owner was negligent should the above component fail and cause damage to the Unit, to other Units or to the Common Elements.

Unit Owners shall maintain and service their air conditioning unit every six (6) months. The failure to do so shall create a rebuttable presumption that the Unit Owner was negligent should the above component fail and cause damage to the Unit, to other Units or to the Common Elements.

9.4.3. Exterior. Owners shall not paint or otherwise decorate or change the appearance of any portion of the exterior of the building unless with written permission from the Board. No Owner can plant their own plants or disrupt current plantings in the Common Elements. Owners shall be responsible for hurricane shutters or hurricane protection as mentioned herein.

9.5. Maintenance Standard. All property to be Maintained, repaired or replaced by a Unit Owner shall be Maintained at all times in a first-class condition and in good working order, if same affects the exterior appearance of the Association, so as to preserve a well-kept

appearance throughout the Association. All property to be Maintained, repaired, or replaced by a Unit Owner which is inside of the Unit Owner's Unit and which does not affect the exterior appearance of the Association shall be Maintained at all times in a condition which does not and will not adversely affect any other Unit Owner, or any other portion of the Association Property.

- 9.6. **Additions, Alterations, or Improvements by Unit Owners.** No Owner shall make or permit the making of any material alterations or substantial additions to their Unit or the Common Elements, or in any manner change the exterior appearance of any portion of the Association, without first obtaining the written approval of the Board of Directors, which approval may be denied if the Board determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the Association in part or in whole. Any glass, screen, curtain, blind, shutter, awning, or other modifications, additions or installations that may be installed where visible from outside the Unit, are subject to regulation by the Board.
- 9.7. **Responsibility for Modifications or Alterations.** If a Unit Owner (or his predecessors in title) makes, or has made any modifications or alterations to the interior or exterior of the Unit, Common Elements, or Limited Common Elements, the Unit Owner shall be financially responsible for the Maintenance, care, preservation, or reconstruction of the modification or alteration. Insurance of such modifications or alterations shall be the responsibility of the Unit Owner for the period during which such Unit Owner owns his Unit. Any modification or alteration to the Association Property made by a Unit Owner (or his predecessors in title) may be required to be removed in connection with the Association's Maintenance of the Association Property. In such cases, such Unit Owner, for so long as such Unit Owner owns his Unit, shall be obligated to reimburse the Association for any reasonable, customary, and appropriate costs affiliated with removal or reinstallation of the item, with said obligation being secured by a right of Lien for Charges for Assessments created by this Declaration, or alternatively, said Unit Owner, if such Unit Owner then owns his Unit, may be required to remove and reinstall said modification or alteration, if so determined by the Board. Further, the Association, its contractors and agents, shall not be liable for any damage to the item arising out of its removal or reinstallation, unless occasioned by the negligence or willful misconduct of the Association or its contractor or agent.
- 9.8. **Home Watch.** When the Unit is unoccupied for more than twenty-one (21) days, the Resident must notify the Board or their designee with personal contact information and have the Unit physically inspected at least every twenty-one (21) days by a "Home Watch" service or other person to protect the Unit in the Owner's absence. Owners are responsible for informing the Board or their designee of contact information for the person or service.
- 9.9. **Combination of Units.** Nothing in the Declaration shall be construed as prohibiting the Board and AMC from authorizing the removal of the party wall between Units in order that the Units might be used together as one integral living space. In such event, all Assessments, voting rights, and shares of the Common Elements shall be calculated as such Units were originally designated on the exhibits attached to the original Declaration of Condominium, notwithstanding the fact that several Units are used as one, with the intent and purpose that the Owner of such "combined" Units shall be treated as the Owner of as many Units as have been combined.

- 9.10. Use of Licensed Contractors.** If such license is required by city, county or state laws, ordinances or codes, an Owner shall only use a licensed contractor (or subcontractor) for Maintenance, repair, replacement, alteration, addition, or Improvement of any portion of the Unit. All persons, contractors, and subcontractors performing any work for an Owner must carry such liability insurance as state laws and licensure require and provide the Association with copies of such insurance. All persons, contractors, and subcontractors performing any work for an Owner must carry workers' compensation insurance unless exempt and a copy must be provided to the Association on request. The Association may limit access to certain daytime hours. All contractors and Owners are required to remove any construction debris daily.
- 9.11. Report.** Owners shall promptly report to the Association any defect or need for repairs where the remedy is the responsibility of the Association. Failure to notify the Association in a timely manner shall be considered negligence on the part of the Unit Owner and, at the discretion of the Board, such additional damage resulting from failure to notify shall be the responsibility of the Unit Owner.
- 9.12. Negligence.** The Owner of each Unit shall be liable for the expenses of any Maintenance, repair or replacement of Common Elements, other Units, or personal property made necessary by his act of negligence or by that of any member of their Family or their Guests, Tenants, or Invitees. Each Unit Owner has a duty to Maintain their Unit, any Limited Common Element appurtenant to the Unit (except those Limited Common Elements required to be Maintained by the Association, as provided herein), and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other Units, the Common Elements or the property of other Owners and Residents. If any condition, defect or malfunction, resulting from the Owner's failure to perform this duty causes damage to other Units, the Common Elements, Association Property, property within other Units, or which will increase insurance rates on any Unit or on the Common Elements, the Owner of the offending Unit shall be liable to the person or entity responsible for repairing the damaged property for all reasonable costs of repair or replacement. 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 and prevent further damage.
- The Board of Directors may establish a list of precautionary duties that each Unit Owner is responsible to perform designed to reduce the incidences of accidents that may cause damage to other Units or the Common Elements. Failure by the Unit Owner to perform said duties shall create a rebuttable presumption that the Unit Owner was negligent and liable for such damage.
- 9.13. Failure to Maintain.** 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 may institute legal proceedings to enforce compliance, or may take any and all other lawful actions to remedy such violation, including, but not limited to, entering the Unit, with or without notice to or consent of the Tenant or Unit Owner, to repair, replace, or Maintain any Common Elements or of any portion of the Unit to be Maintained by the Association pursuant to this Declaration. 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.

- 10. ADMINISTRATION AND MANAGEMENT OF CONDOMINIUM.** The administration and management of the Association shall be by the Association, which has by and through its Officers and Directors, such powers, authority and responsibilities as are vested in the Officers and Directors of a corporation not-for-profit under the laws of the State of Florida, including, but not limited to, those set forth more specifically elsewhere in the Governing Documents. The Association has the authority to enter into management and other agreements concerning the matters of common interest through its Officers. The management of the Association and election of the Members to the Board is stated in the Bylaws. Without limiting the foregoing, the Association has the following rights and powers:

- 10.1. Unit and Limited Common Element Access.** The irrevocable right of access to each Unit and its appurtenant Limited Common Elements during reasonable hours as may be necessary for the Maintenance of any Common Elements or of any portion of a Unit to be Maintained by the Association pursuant to this Declaration, or as necessary to prevent damage to the Common Elements or to any Unit or Units, or to determine compliance with the terms and provisions of this Declaration, and the Rules and Regulations adopted pursuant to such documents, as the same may be amended from time to time. When a Unit Owner must Maintain, repair, or replace portions of the Association Property as provided herein, and which requires access to another Unit for said purpose, the Unit Owner shall have reasonable right of access which shall be administered through the Association. The Unit Owner upon whose behalf access has been obtained shall be obligated for the expense of repairing any damage to the Association Property.
- 10.2. Assessments and Charges.** The power to make and collect regular Assessments, Special Assessments, and other Charges against Unit Owners.
- 10.3. 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 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.

If the requested records are posted on the Association's website, or are available for download through an application on a mobile device, the Association may fulfill its obligations by directing to the website or application the persons authorized to request access.

The Association shall be entitled to charge a reasonable fee to the prospective purchaser, lien holder, or Member for its time in providing good faith responses to requests for information by or on behalf of a prospective purchaser or lien holder, other than that required by law, plus the reasonable cost of photocopying and any attorney's fees incurred by the Association in connection with its response.

- 10.4. Roster.** The Association shall maintain a current roster of names and mailing addresses of Unit Owners. A copy of the roster shall be made available to any Member upon request. Additionally, the Association may maintain the electronic mailing addresses designated by Members for receiving notice by electronic transmission of those Members consenting in writing to receive notices and documents by electronic transmission. The electronic mailing addresses and telephone numbers provided by Members to receive notices and documents by electronic transmission shall be removed from Association records and not made available to other Members when consent to receive notice by electronic transmission is revoked in writing and sent to the Association. The Association, however, is not liable for an erroneous

disclosure of the electronic mailing address or the number for receiving electronic transmission of notices.

- 10.5. **Acquisition or Transfer of Real or Personal Property.** The power to acquire real property and transfer real property owned by the Association or otherwise convey and mortgage real property for the use and benefit of the Unit Owners with the same approval of Unit Owners as is needed to amend the Declaration. No Unit Owner approval is required to acquire, purchase, or mortgage a Unit in connection with foreclosure of a lien or deed in lieu of foreclosure, nor to dispose of such Unit. No Unit Owner approval is required for the acquisition or disposition of real property necessary, as determined by the Board, to address legal description or survey errors, or boundary or ownership disputes or uncertainties.
- 10.6. **Membership Agreements.** The power to enter into agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other recreational facilities with the same approval of Unit Owners as needed to amend the Declaration.
- 10.7. **Fees for Use of Common Elements.** The power to set fees, pursuant to the Act, the Board of Directors shall have the authority to set use fees for private use of Common Elements or Association Property, as well as the regulations and policies pertaining to such use. The Board of Directors may also establish other fees and deposits determined necessary by the Board. Nothing in this Declaration shall be construed as obligating the Association to provide any of the aforementioned services.
- 10.8. **Lease of Association Property or Common Elements.** The power to Lease Association Property or Common Elements, as authorized by the Board, including, but not limited to, the Lease of Building roof areas and other Common Elements for antennas or other telecommunications and similar equipment. No use fee may be charged against a Unit Owner for use of the Common Elements or Association Property except fees set by the Board pertaining to an Owner having exclusive use of the Common Elements or Association Property, or as agreed by the Association and the party Leasing Association Property or Common Elements, pursuant to an oral or written Lease agreement, or fees authorized by this Declaration.
- 10.9. **Delegation.** The power to enter into contracts with others, for valuable consideration, for Maintenance and management of the Association Property and Association Property and, in connection therewith, to the extent permitted by applicable law and unless otherwise provided in this Declaration, the power to delegate such power or its other powers and rights under this Declaration to its Officers, committees, management, or other agents, including, without limitation, the making and collecting of Assessments and other Charges against Unit Owners, and perfecting liens for non-payment thereof.
- 10.10. **Regulations.** The power to adopt and amend Rules and Regulations covering the details of the operations and use of the Association Property.
- 10.11. **Limitation Upon Liability of Association.** The Association is not liable to Unit Owners for injury or damage, other than for the cost of Maintenance and repair caused by any latent condition of the Association Property. Further, the Association shall not be liable for any such injury or damage connected with any alterations or Improvements done by or on behalf of any Unit Owners, regardless of whether or not approved by the Association.

- 10.12. Restraint upon Assignment of Shares in Assets.** The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his Unit.
- 10.13. Approval or Disapproval of Matters.** Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such Owner at an Association meeting, unless the joinder of record Owners is specifically required by this Declaration.
- 10.14. Acts of the Association.** Unless the approval or action of the Unit Owners, or a certain specific percentage of the Board, is specifically required in this Declaration, the Articles or Bylaws, applicable Rules and Regulations or applicable law, all approvals, consents, or actions required or permitted to be given or taken by the Association shall be given or taken by the Board, without the consent of the Unit Owners, and the Board may so approve and act through the proper Officers of the Association without a specific resolution. The approval or consent of the Association or the Board shall be evidenced by a written instrument signed by any Director or Officer of the Association. When an approval, consent or action of the Association is permitted to be given or taken, such approval, consent or action may be conditioned in any manner the Association deems appropriate or the Association may refuse to take or give such approval, consent, or action without the necessity of establishing the reasonableness of such conditions or refusal, except as herein specifically provided to the contrary.

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

- 11.1. Determination of Assessments.** Assessments by the Association against each Owner, and against each Unit, shall be based upon the annual budget, adopted by the Board as specified herein. The Assessment for each Unit shall be a pro rata share in relation to Member's ownership of Common Elements. Should the Board at any time and from time to time determine, in the sole discretion of the Board, that the Assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Association, or in the event of emergencies, the Board shall have the authority to levy such additional Assessments as it shall deem necessary. Any such change shall be adopted consistent with the provisions of the Bylaws.

- 11.1.1. Annual Budget.** The Board shall, in accordance with the Bylaws of the Association, establish an annual budget in advance for each fiscal year. The annual budget shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses set forth in Section 718.504(21) of the Florida Statutes.

- 11.1.2. General Operating Reserve.** The Board, when establishing each annual budget, may, when deemed necessary or desirable, include therein a sum to be collected and maintained as a general operating reserve to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies from time to time existing as a result of delinquent payment of Assessments by Owners, as a result of emergencies, structural integrity reserve studies, or for other reason placing financial stress upon the Association. The annual amount allocated to such "non-statutory operating reserves" and collected

therefore shall not exceed ten percent (10%) of the current annual Assessment levied against the Owners of all Parcels. Upon accrual in the operating reserve of an amount equal to twenty-five percent (25%) of the current annual Assessment, no further payments shall be collected from the Owners as a contribution to such operating reserve, unless it shall be reduced below the twenty-five percent (25%) level, in which event the annual Assessment against each Owner and Unit may be increased to restore the operating reserve to an amount which will equal twenty-five percent (25%) of the current annual amount of said Assessment.

11.2. Liability for Assessments and Charges. A Unit Owner is liable for all Assessments and Charges coming due while he is the Unit Owner. Except as provided in the Act specifically Florida Statute Chapter 718.116, as amended from time to time, any person which acquires title to a Unit is jointly and severally liable with his predecessor in title for all unpaid Assessments and Charges against the predecessor for his share of the Charges and Assessments, including interest, late fees, reasonable attorneys' fees and other costs and expenses of collection incurred by the Association up to the time of the transfer, without prejudice to any right the transferee may have to recover from the transferor the amounts paid on behalf of the transferor by the transferee.

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

A First Mortgagee acquiring title to a Unit as a result of foreclosure, or deed in lieu of foreclosure, may not, during the period of its ownership of such Unit, whether or not such Unit is unoccupied, be excused from the payment of some or all of the Common Expenses coming due during the period of such ownership.

11.4. Delinquency or Default. The payment of any Assessment or installment thereof due to the Association shall be in the default if not paid to the Association on or before the due date thereof. The Association may accelerate Assessments of an Owner delinquent in payment of any Assessment or installment thereof due. Accelerated Assessments shall be due and payable on the date the claim of lien is filed. Such accelerated Assessments shall include the amounts due for the remainder of the budget year in which the claim of lien is filed.

11.5. Failure to Pay: Interest and Late Fees. Assessments and installments thereon paid on or before forty-five (45) 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. Assessments shall be deemed paid when received by the Association. The Association may also impose a late payment fee (in addition to interest) to the extent permitted by law. All payments on account shall be applied first to interest, then to late payment fees, court costs and attorney's fees, and finally to delinquent Assessments. No payment by check is deemed received until the check has cleared.

11.6. Recording of Priority of Lien. The lien of the Association shall be effective from and after recording in the Public Records of the County, a claim of lien stating the description of the Unit encumbered thereby, the name of the record Owner and the amount and date when due. No such lien shall continue for a longer period than one year after the claim of lien has been

recorded unless, within that time, an action to enforce the lien is commenced in a court of competent jurisdiction. Such claims of lien shall include only Assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an Officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The lien of the Association shall be subordinate and inferior to the lien of any recorded first mortgage, unless the Association's Claim of Lien was recorded before the mortgage, but is superior to, and takes priority over, any other mortgage or lien regardless of when the mortgage or lien was recorded. Any Lease of a Unit is subordinate and inferior to any Claim of Lien of the Association, regardless of when the Lease was executed.

- 11.7. Notice of Intention to Foreclose Lien.** So long as required by law, no foreclosure judgment may be entered until at least forty-five (45) days after the Association gives written notice to the Owner of its intention to foreclose its lien to collect the unpaid Assessments or Charges. The notice must be given by delivery of a copy of it to the Owner or by certified mail, return receipt requested, addressed to the Owner at his last known address; and, upon such mailing, the notice shall be deemed to have been given. If after diligent search and inquiry the Association cannot find the Owner or a mailing address at which the Owner will receive the notice, the court may proceed with the foreclosure action and may award attorneys' fees and costs as permitted by law. The notice requirements of this provision are satisfied if the Owner records a Notice of Contest of Lien as provided in the Act. The notice requirements do not apply if an action to foreclose a mortgage on the Unit is pending before any court; if the rights of the Association would be affected by such foreclosure; and if actual, constructive, or substitute service of process has been made on the Owner.
- 11.8. Other Remedies.** The Board has the authority to impose such other remedies or sanctions permitted by the Act pertaining to non-payment of monetary obligations to the Association. Without limitation, the same include suspension of use rights in Common Elements and Association Property; suspension of voting rights; suspension of the right to serve on the Board; the attachment of Rental income; denial of Lease approval requests; and acceleration.
- 11.8.1. Suspension of Use and Voting Rights.** If an Owner is delinquent for more than 90 days in paying a monetary obligation due to the Association, the Association may suspend the right of an Owner or an Occupant, Tenant, Licensee, or Invitee to use Common Elements, Common Facilities, or any other Association Property until the monetary obligation is paid. The Association may also suspend the voting rights of an Owner due to nonpayment of any monetary obligation of one thousand (\$1,000.00) dollars or more to the Association which is more than ninety (90) days delinquent for so long as the Owner remains delinquent.
- 11.8.2. Attachment of Rental Income.** Notwithstanding any other remedy available to the Association under this Declaration, the Bylaws, or applicable law, the Association shall have the following options when payment of Assessments or Charges are in default (more than ten days in arrears). The Association may, without order of the Court, direct Rental income (by written notice to the Tenant with copy to Unit Owner) from Units in default to be paid directly to the Association until all outstanding Assessments, Charges, other monetary obligations, interest, late fees, costs, collection expenses, attorneys' fees and receiver's fees, if applicable, are paid in full. As an alternative, the Association

may apply to a Court of competent jurisdiction, either in connection with a foreclosure suit, a personal suit, or otherwise, to have Rental proceeds paid on account of a Unit in default paid directly to the Association, the court registry, or a receiver, as the Court may direct. The Association may choose any of these courses of action, or other remedies as may be prescribed by law or elsewhere in the Governing Documents, as the Board deems appropriate, without same constituting a waiver or election of remedies.

11.9. Lien for Charges. Except as prohibited by law, there is created by this Declaration a common law and contractual lien to secure payment for any service which the Association provides for an individual Owner or expenses which the Association incurs in regard to an Owner and which are not otherwise secured by the statutory lien for Common Expenses. By way of example, but not limitation, a Lien for Charges exists to secure repayment to the Association for provided utilities or services, such as water, and when it must remove or reinstall Owner alterations or additions or other items of Owner insurance, or Maintenance responsibility in connection with the Association's discharge of its Common Element Maintenance responsibilities, or address emergency situations, such as water extraction from a Unit. The Lien for Charges shall be of equal priority to, shall accrue interest and late fees, and shall be foreclosed in the same manner as the Common Expense lien, i.e. as an "assessment," including the right to recover attorneys' fees, costs, and expenses of collection.

11.10. Certificate As To Assessments. Within ten (10) business days after 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. The Association or its authorized agent may charge a reasonable fee as allowed by law for the preparation of the certificate.

12. LEASING. The ability of a Unit Owner to lease his or her 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.

12.1. Regulation by Association. The Board of Directors shall have the authority to approve or disapprove all Leases and Rentals, or delegate this responsibility to the Master Association or other agent. Rules and restrictions concerning Leasing shall be as per the guidelines designated by the Master Association, or if the Association chooses to approve Leases, as per the rules the Board promulgates.

12.2. Notice by the Owner. An Owner intending to Lease their Unit shall give to the Board or its designee written notice of such intention at least twenty (20) days prior to the first day of Occupancy under the Lease together with the name and address of the proposed Lessee and Occupants, a fully executed copy of the proposed Lease, and such other information as the Board may reasonably require including but not limited to a credit report, background check, and proof of lawful residency. The Board of Directors may exercise discretionary power in certain special, or emergency situation(s) to expedite the approval process. Any Owner that fails to complete the necessary paperwork and/or pay all applicable fees will be in violation, and subject to a fine. The Board shall have the right to delegate the screening of

proposed Tenants to a committee, a commercial Tenant screening concern, or the Master Association.

- 12.3. Term of Lease.** Leasing during the first thirty-six (36) months of ownership is prohibited. No Unit may be leased for a term of less than sixty (60) days. No Unit may be leased more often than three (3) times in any calendar year. The first day of the occupancy under the Lease shall determine in which year the Lease occurs. Lease Renewals are not automatic. Sub-Leasing is not permitted. Renting of rooms is strictly prohibited.

- 12.3.1. Exceptions to Lease Restriction.** An Owner that takes title to a Unit after the effective date and has not owned the Unit for thirty-six (36) consecutive months may be allowed to lease their Unit in the following situation:

12.3.1.1. Inheritance. Ownership was attained through inheritance from the previous Owner, who owned the Unit for thirty-six (36) consecutive months.

12.3.1.2. Lease-Back. A new owner wishing to lease the Unit back to the previous Owner, who owned the Unit for at least thirty-six (36) consecutive months, can do so for a period of not more than 180 days. The thirty-six (36) month restriction for Leasing the Unit would begin after the 'Lease-Back' period ended.

12.3.1.3. If the Ownership was procured under one of the above situations, then the Board of Directors has the right to grant an exception allowing the Owner to Lease the Unit, provided the Board of Directors grant the exception in writing.

- 12.4. Fees and Deposits for the Lease of Unit.** Whenever herein the Board's approval is required to allow the Lease of a Unit, the Association may charge the Owner a preset fee in addition to the costs of any background and credit checks for processing the application. Such fee shall not exceed the maximum amount allowed by law.

- 12.5. Board Action.** After the required notice and all information or interviews requested have been provided, the Board shall have twenty (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 an approval, and on demand the Board shall issue a written letter of approval to the Lessee.

- 12.6. Disapproval Criteria.** 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 "Disapproval Criteria":

- 12.6.1.** The Person seeking approval (which includes all proposed Occupants or Residents) has been convicted of, pled no contest to, or has been released from incarceration, probation or community control for:

- 12.6.1.1. a capital, first, or second degree felony involving violence to persons or property, or a felony demonstrating dishonesty or moral turpitude;
- 12.6.1.2. a felony involving damage to or theft of property;
- 12.6.1.3. a felony involving sexual battery, sexual abuse, or lewd and lascivious behavior;
- 12.6.1.4. a first or second degree felony involving illegal drugs;
- 12.6.1.5. any drug offense involving the manufacture and/or distribution of illegal drugs.
- 12.6.2. The Person seeking approval has been labeled a sexual offender or a sexual predator by any governmental or quasi-governmental agency regardless of when that label occurred;
- 12.6.3. The application for approval on its face, or the conduct of the applicant, indicates that the person seeking approval intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the Association.
- 12.6.4. The proposed Occupant makes any material misrepresentation during the application process, which shall justify retroactive disapproval of the application upon discovery of the misrepresentation.
- 12.6.5. The Person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in other housing facilities or associations, or by his conduct in this Association as a Tenant, Resident, Occupant or Guest;
- 12.6.6. By way of example, but not limitation, an Owner allowing a Tenant or transferee to take possession of the premises prior to approval by the Association as provided for herein shall constitute a presumption that the applicant's conduct is inconsistent with applicable restrictions.
- 12.6.7. The Owner or Person seeking approval has failed to provide the information, fees or appearances required to process the application in a timely manner or has made material misstatements or withheld material or information during the application process;
- 12.6.8. The Owner has a history of Leasing their Unit without obtaining approval, or Leasing to troublesome Lessees or refusing to control or accept responsibility for the Occupancy of their Unit;
- 12.6.9. The Owner has a history of disregarding the Rules and Regulations of the Association, including without limitation, prior covenant violations, delinquencies or disregard of the Leasing provisions.
- 12.6.10. The real estate company or rental agent handling the Leasing transaction on behalf of the Owner has a history of screening Lessee applicants inadequately, recommending undesirable Lessees, or entering into Leases without prior Association approval;

12.6.11. All Assessments, fines and other Charges against the Unit have not been paid in full.

12.7. Unapproved Leases. Any Lease of a Unit not approved pursuant to this Section shall be void and unenforceable unless subsequently approved by the Board. The Association shall have the right to evict the Tenant without securing the consent from the Owner. For the purpose of such eviction, the Association shall be deemed to be an agent of the landlord and all attorney fees and costs shall be the responsibility of the Owner and shall constitute a Charge and may be collected as a delinquent Assessment as provided for in this Declaration.

12.8. Tenant Agreement to Covenants. All of the provisions of the Governing 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 Governing Documents, designating the Association as the Owner's agent with the authority to terminate any Lease agreement and evict the Tenants in the event of breach of such covenant, shall be deemed to be included in every Lease agreement, whether oral or written, and whether specifically expressed in such agreement or not. All Leases shall be deemed to provide that a violation of the Governing Documents is grounds for damages, termination, and eviction and that the Tenant and the Owner agree that the Association may proceed against either the Owner or the Tenant and the Owner or the Tenant shall be responsible for the Association's costs and expenses, including attorney fees and costs, secured by a lien against the Unit.

12.9. Collateral Assignment of Rents. In the event an Owner is in default in payment of Assessments for Common Expenses or any other monetary amounts owed to the Association, the Association shall have the authority to collect rents directly from the Owner's Tenant. The authority granted in this Section is in addition to any authority granted by law.

12.10. Attorney Fees and Costs. All attorney fees and costs associated with any legal action taken against a Tenant or Occupant shall be the responsibility of the Owner. This includes, but is not limited to, all attorney fees and costs incurred by the Association in connection with a covenant enforcement matter, collateral assignment of rents, or legal action with regard to a Tenancy or Occupancy issue, termination of a Lease, or eviction of any Lessee or Occupant.

12.11. Use of Common Areas and Association Property. To prevent overtaxing the facilities, an Owner whose Unit is Leased may not use the recreation or parking facilities during the Lease term.

13. APPROVAL OF SALES AND TITLE TRANSFERS. In order to maintain a community of congenial Unit Owners who are financially responsible, and thus protect the value of the Units, the use and transfer of Units by any Unit Owner is subject to the following provisions as long as the Condominium exists upon the land, which provisions each Unit Owner covenants to observe.

NOTE: Any person who was not approved as part of the conveyance to the present Owner must be approved in advance of taking Occupancy as provided herein, and for good cause may be disapproved, regardless of whether or not said person shall be obtaining an ownership interest in the Unit.

13.1. Ownership. No Unit may be owned by any person for the purpose of using such Unit, and no Unit shall be used, as a short-term or transient accommodation for several Families or other individuals, whether as a timeshare or fractional or other shared ownership, nor used as Guest accommodations for (i) employees, suppliers, or customers of a business organization or (ii) employees, members or other agents of religious, charitable or other organizations. "Unit Sharing" by multiple Families and "Fractional Ownership" are prohibited. The intent of this provision is to allow flexibility in estate, financial, or tax planning, and not to create circumstances in which the Unit may be owned or used for the foregoing prohibited purposes.

13.2. Transfers Subject to Approval.

13.2.1. Sale or Other Transfer. Except for transactions that do not involve a transfer of beneficial Ownership (such as a revocable trust in which the Owner retains control), no Owner may dispose of a Unit or any interest in same (i) by sale or other title transfer or (ii) by other means (including agreement for deed, installment sales contract, Lease-option, or other similar transactions), without prior written approval by the Board. Review and approval of transfer applications may be delegated to an Officer, a Committee, or an agent, provided that no Officer, Committee, or agent may deny a requested transfer of a Unit without the concurrence of a majority of the Board.

13.2.2. Gift. Except for transactions that do not involve a transfer of beneficial Ownership (such as a revocable trust in which the Owner retains control), if any Unit Owner is to acquire their title by gift, his ownership of his Unit shall be subject to the prior approval of the Board.

13.2.3. Devise or Inheritance. If any Owner acquires his title by devise, inheritance, or through other succession laws, his right to Occupy or use the Unit shall be subject to the approval of the Board. The approval shall not be unreasonably denied to any successor in interest 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.

13.2.4. Other Transfers. If any person acquires title in any manner not considered in the foregoing subsections, that person shall have no right to Occupy or use the Unit before being approved by the Board under the procedures outlined herein.

13.3. Approval by Association. The approval of the Association that is required for the transfer of ownership of Units shall be obtained in the following manner:

13.3.1. Notice to Board of Directors; Sale. A Unit Owner intending to make a bona fide sale or other title transfer of his Unit or any interest in it, including gifts, transfers to natural persons or artificial entities, and the grant of partial estates, shall give to the Board written notice of such intention at least thirty (30) days

before the intended closing date, together with the name and address of the intended grantee, an executed copy of the purchase contract and its exhibits, or other documentation evidencing the transfer and such other information concerning the intended grantee and the transaction as the Board may reasonably require. The Board may require, without limitation, credit history, a criminal background investigation, past residency or employment verification, personal references, and a personal interview with the purchaser(s) and all proposed Unit Occupants. The Board, in its sole discretion, may approve an offer to accommodate a 'fast cash' offer, however, the Owner must still provide all the relevant information required to the Board and occupation of the Unit by the purchaser shall be subject to subsequent approval by the Board.

13.3.2. Notice to Board of Directors; Devise or Inheritance. The transferee must notify the Board of his ownership interest 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 set forth herein.

13.3.3. Failure to Give Notice. If the above-required notice to the Board is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a Unit, the Board at its election and without notice may approve or disapprove the transaction or ownership. If the Board disapproves the transaction or ownership, the Board shall proceed as if it had received the required notice on the date of such disapproval.

13.3.4. Board Action. Within thirty (30) days after the receipt of notice and all information or interview request, 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 the transfer within the time set forth above, such failure shall be deemed the equivalent of approval and on demand the Board shall issue a Certificate of Approval to the transferee.

13.4. Disapproval by Board of Directors. If the Board shall disapprove a transfer or continuance of Ownership of a Unit, the matter shall be disposed of in the following manner:

13.4.1. Disapproval for Good Cause. Disapproval of title transfers or the continuation of ownership pursuant to this Article shall be made by the Board if it is determined that the potential Owner does not factually qualify for membership in the Association, or if the proposed transaction will result in a violation of the Governing Documents. The Disapproval Criteria established herein, and any substantially similar considerations, may be deemed to constitute good cause for disapproval.

If the Board disapproves a transfer for good cause, the Association has no duty to purchase the Unit or furnish an alternate purchaser, and the transaction shall not be made, or if made, shall be rescinded in the manner determined by the Board. The ability to conduct background investigations and the extent of such

investigation, if any, shall be as determined by the Board in its reasonable discretion, acting in good faith.

13.5. By Decedent. In case of the death of the Owner of an apartment, the surviving spouse, if any, and if no surviving spouse, the other member or members of such owner's family residing with the Owner at the time of their death, may continue to occupy said Units; and if such surviving spouse or other member or members of decedent Owner's family ultimately succeeded to the Ownership of the Unit, the Ownership transfer thereof shall be approved absent a showing by the Board of good cause. In the event said decedent shall have conveyed or bequeath the Ownership of their Unit to some designated person or persons other than their surviving spouse or member of their family, or if some other person is designated by such decedent's legal representative to receive the Ownership of the Unit, the Board of Directors of the Association shall within thirty (30) days after written request to do so, accompanied by proper evidence of rightful designation, express its approval or disapproval for transfer of the Unit to the individual or individuals so designated.

13.6. Transfer Fee. The Association may charge a processing fee for the approval of transfers of title. The fee may not exceed the maximum permitted by law per transaction.

14. OCCUPANCY AND USE RESTRICTIONS. The use of the Property of the Association shall be in accordance with the following provisions:

14.1. Occupancy of Units; Single Family Residence. A Unit shall be used only as a Single Family residence. As used in the Governing Documents, "Single Family" means one natural person, a group of two or more natural persons who customarily reside together as a Single Family housekeeping unit, each of whom is related to each of the others by blood, marriage (or domestic partnership) or adoption, or not more than two persons not so related, who customarily reside together as a single housekeeping unit. For purposes of these Governing Documents, reside means to sleep in the Unit for more than twenty-one (21) nights during a calendar year. No Unit may be divided or subdivided into a smaller Unit nor any portion sold or otherwise transferred. No person may reside in a Unit as an Owner, Resident, or Family member or for any reason Occupy the Unit on an overnight basis for more than twenty-one (21) days in a calendar year unless said person's Occupancy has been specifically approved by the Association, through the Board of Directors. In considering such requests, the Board may consider the Disapproval Criteria established herein to constitute good cause for disapproval and may charge a reasonable fee for review of Occupancy requests.

14.1.1. Immediate Family. Immediate family shall be the parents, grandparents, grandchildren, children, brothers, and sisters and their children.

14.1.2. Occupancy When Owner Is Not Present. Upon written notification to the Board of Directors, or designated Director, a Unit may be occupied by a single family of guests or immediate family for a period not to exceed twenty-one (21) days when the Owner is not present. This written notification must include the names, addresses, and relationship to the owner of all persons to occupy the Unit. The transfer fee is not required.

- 14.1.3. **Occupancy During Lease Term.** No one but the Lessee, their family members within the first degree of relationship by blood, adoption or marriage, and their spouses and temporary house Guests may occupy a Unit.
- 14.1.4. **Occupancy in Absence of Lessee.** If a Lessee is absent from the Unit for any period of time during the lease term, their family within the first degree of relationship already in residence may continue to occupy the Unit and may have house Guests subject to all restrictions as set forth herein.
- 14.2. **Guests; Guest Suspension.** Any person who is physically present in or occupies a Residential Living Unit on a temporary basis (21 days or less) at the invitation of the Owner without the payment of consideration shall be deemed a Guest. The Board may, at a duly noticed meeting, temporarily suspend or permanently ban a Guest from entering the Property if the Board finds that such person has engaged in a serious violation of the Governing Documents or applicable law upon the Association Property or has engaged in systematic violations of the Governing Documents or applicable law upon the Association Property. Prior to the imposition of such suspension or ban, the Owner shall be given at least fourteen (14) days' notice of an opportunity before a hearing before the fining committee to show cause why the suspension or ban should not be imposed. The decision of the fining committee shall be final.
- 14.3. **Residential Business Uses.** Owners and Occupants may use Unit for "home office" or "telecommuting" purposes, provided that such uses do not involve customers or clients coming onto the Property, the posting of any signage in the Association, the storage of equipment, products, or materials in the Association, nor more than two regular deliveries per day of correspondence or similar items from customary express delivery services.
- 14.4. **Animals.** A total of animals (3) animals of a normal domesticated household type (such as cats or dogs) are permitted. No horses, cows, swine, monkeys, poultry, or livestock of any kind may be kept in any Unit. All animals kept in the Unit must be for personal Family enjoyment as pets, no commercial breeding or boarding of animals of any type is allowed. Tenants will not be permitted to have pets at any time without express approval of the Board of Directors.
 - 14.4.1. All Animals must be under handheld leash or carried at all times while outside the Unit, and therefore electronic devices such as fences to control animals are not permitted. No pets are to run at-large.
 - 14.4.2. Excrement made by animals shall be removed by Owners or handlers immediately, placed in a sealed container, and deposited in the Owner's solid waste container.
 - 14.4.3. Animals that are, in the sole discretion of the Board of Directors, vicious, noisy, or otherwise unpleasant will not be permitted. In the event that an animal has, in the sole opinion of the Board, threatened a person or another's animal, has become a nuisance or an unreasonable disturbance, written notice will be given to the Owner or other person responsible for the animal, and the animal shall be removed from the Association after review, hearing and determination of the compliance committee.
 - 14.4.4. Owners may not leave animals unattended in backyards, screened porches or

lanais, or where their noise may bother others.

- 14.4.5. Any Owner or other Resident who keeps or maintains any animal shall, in exchange for and in consideration of the privilege to keep the animal, hereby indemnify and hold the Association and each Owner free and harmless from any loss, claim or liability of any kind or character of whatever nature arising from or related to the keeping of such animal within the Association.
 - 14.4.6. The Board has the authority and discretion to make exceptions to the limitations in this regulation in individual cases and to impose conditions concerning the exceptions. The granting of exceptions shall not be deemed to be a waiver of the right to enforce the restrictions in other cases.
 - 14.4.7. Feeding of wildlife and other animals is expressly prohibited and subject to fining by the Association. Leaving food unattended so that wildlife or roaming animals can easily find it is considered to be feeding wildlife. The Association will not hesitate to notify the appropriate authorities if feeding wildlife occurs.
- 14.5. **Acts of Animals.** The Association shall have no liability for the actions of or damage caused by any animals within the Properties including but not limited to dogs, bear, alligators, cougar, wild boar, deer, and snapping turtles. All Owners, and their Families, Guests, Invitees, and Lessees are hereby made aware of the presence of hazards caused by certain animals within the Properties.
- 14.6. **Vehicles; Parking.** In order to ensure the accessibility to the Property by fire, ambulance and other emergency personnel, the Board shall have the authority to establish parking policies in the Community. Said restrictions shall become enforceable upon providing each Owner with notice thereof either through written notice to the Owners or the posting of signs.
- 14.6.1. **Parking.** No parking on areas other than the pavement shall be permitted. Parked vehicles shall not block mailboxes, driveways, speed control signs or cause roadway hazards that impede the safe passage of emergency vehicles. parking within fifteen (15) feet of a stop sign or intersection is expressly forbidden.
- Automobiles owned by governmental first responders are expressly permitted.
- 14.6.2. **Abandoned or Inoperable Vehicles.** Abandoned or inoperative vehicles or unregistered vehicles of any kind shall not be stored or parked on any portion of the property. "Abandoned" and/or "inoperable vehicles" shall be defined as any vehicle which has not been driven under its own propulsion for a period of three (3) weeks or longer, provided, however, it shall not include vehicles parked or operable vehicles registered with the Association and parked in driveways by their owners. A written notice requesting the removal of an unregistered, abandoned and inoperable vehicle may be personally served upon the owner or posted on the unused vehicle; and if said vehicle has not been removed within seventy-two (72) hours thereafter, the Association shall have the right to remove same without liability to it and the expense thereof shall be charged against the owner.

- 14.6.3. Commercial Vehicles.** No commercial vehicles or campers, mobile homes, motorhomes, motorcycles, house trailers or trailer of every other description, recreational vehicles, boats with trailers, house trailers or vans both licensed and unlicensed shall be permitted to be parked on any property or street side. For the purpose of this section, 'commercial vehicles' shall mean those of which are not designed and used for customary personal/family purposes. The absence of commercial type letters or graphics on a vehicle shall not be dispositive as to whether or not it is a commercial vehicle. Passenger vans and other vehicles situated on a truck chassis such as Suburbans, Explorers and Jeeps shall be considered non-commercial unless used as a commercial vehicle. The prohibitions of parking contained above in this section shall not apply to temporary parking of a commercial vehicle, such as, construction use or providing pick up and delivery and other commercial services.
- 14.6.4. Other Vehicles.** Gasoline powered motorcycles, motor scooters, ATV's, go karts and similar powered vehicles must be licensed and registered with the State of Florida to be legally operated on Association roadways. Operators must be at least 16 years of age and properly licensed. Electric powered golf carts and scooters are exempted from licensing and registration requirements.
- 14.6.5. Special Parking Permits.** Owners only may apply for a special permit to temporarily park recreational vehicles, trailers, boat trailers, POD's or moving vans, and trailers on their driveways or Association roads and parking areas. Special Parking Permits are issued by, denied, or revoked at the sole discretion of the Master Association Board of Directors. Special Parking Permits are for a maximum period of three (3) days and two (2) nights and must be prominently displayed on the vehicle so as to be readily visible from the street. Any vehicle temporarily parked with a Special Parking Permit is subject to all of the Association's street parking restrictions. Special Parking Permits will not be issued, and those already issued will be null and void immediately upon the issuance of a tropical storm or hurricane watch or warning by the National Hurricane Center.
- 14.7. Towing.** Any vehicle that is parked in violation of the Master Association's restrictions may be towed or booted. No prior notice is required. All costs and expenses shall be borne by the owner of the vehicle. The Association is not liable for trespass or for any damage to a vehicle that is towed or booted by a licensed and insured company. Owners and Lessees are responsible to see that all of the Occupants of their Unit, Guests, and Invitees, comply with the Association's parking restrictions. Owners shall indemnify, defend, and hold the Association harmless from all claims against the Association on account of towing or booting a vehicle, including claims against the Association asserted by any Occupant of the Unit, Guests, and Invitees, excepting only if it has been judicially determined that the Association is guilty of gross negligence or a higher degree of culpability.
- 14.8. Architectural and Landscaping Control.** No Unit, building, structure, enclosure, or other Improvement shall be erected or altered, nor shall any grading, excavation, landscaping, change of exterior color, or other work which in any way alters the exterior appearance of any structure or Unit shall occur unless and until the plans, specifications, and location of same shall have been submitted to, and approved in writing by, the Architectural Modifications Committee ("AMC"). All plans and specifications shall be evaluated as to

harmony of external design and location in relation to surrounding structures and topography. The Board shall have sixty (60) days after delivery of all required information, plans and materials to approve or deny any such plan, and if not denied within such period, said plans shall be deemed approved. All approved modifications or Improvements shall be completed within one hundred eighty (180) days from the date of approval. All changes, alterations, or modifications to an approved plan must also be approved pursuant to these same requirements. The Association may elect not to establish an Architectural Review Committee, but in the alternative, may designate the Master Association AMC as the sole Architectural Review Committee for Improvements to be located within the Association. Remodeling may only be done between May 1st - October 31st of a calendar year, except where needed in cases of emergency or major incident.

- 14.9. **Antenna.** No antenna of any kind shall be placed or erected upon any Parcel or affixed in any manner to the exterior of any building other than a satellite antenna less than one meter in diameter, an aerial designed to receive over-the-air television broadcast, or an antenna designed to receive multi-channel, multi point distribution service which may be installed only at a location on a Parcel approved by the AMC. In approving the installation and location of any antenna the AMC shall comply with all applicable laws, whether State or Federal.
- 14.10. **Exterior.** No exterior curtain, blind, awning, or glass, etc., shall be installed on any porch or balcony without the prior approval of the Board of Directors. An Owner shall not individually paint or otherwise decorate or change the appearance of any portion of the exterior of their Unit. Repairs, screening and screening supports shall be at the Owner's expense, unless covered by Association insurance policy. All planters and planter boxes must be well-kept and Maintained by the Owner.
- 14.11. **Flags.** Any Unit Owner may display one (1) portable, removable United States flag in a respectful way and, on Armed Forces Day, Memorial Day, Flag Day, Independence Day, Patriot Day, and Veterans Day, may display in a respectful way portable, removable official flags, not larger than 4 1/2 feet by 6 feet, that represent the United States Army, Navy, Air Force, Marine Corps, Space Force or Coast Guard. No other flags, i.e. team, college, sport or decorative are allowed.
- 14.12. **Floor Coverings.** Hardwoods, tiles, and similar hard flooring materials may be installed with, at a minimum, the manufacturers' recommended level of sound deadening materials, but in no case less effective for sound reduction than provided by carpet. The Association shall have the right to enter the Units and adjacent Units, test for sound transfer, and mandate additional or more effective sound reduction materials. Any floor covering replacement must be approved by the Board and/or the AMC.
- 14.13. **Grills.** Substantial restrictions are imposed by law on our Members regarding grills. For such restrictions, please see the Estero Fire Rescue web site (currently <https://esterofire.org/grill-use/>).
- 14.14. **Hurricane Shutters.** The Board of Directors shall adopt and approve a model, style and color of hurricane shutter as a standard hurricane shutter for use in the Association. All specifications adopted by the Board must comply with the applicable building code. No hurricane shutter except of the standard model, color and style adopted or approved by the Board of Directors shall be used in or upon the Property. Shutters installed and existing prior to the adoption of a standard are grandfathered.

- 14.15. Nuisance.** The Association Property shall not be used for any immoral, improper or unlawful purpose and no use or behavior shall be allowed which will create a public or private nuisance, nor which shall unreasonably interfere with the quiet possession or enjoyment of the Association Property, nor which becomes a source of annoyance to the Residents, which will increase insurance rates, or which will negatively affect the value of Units. All parts of the Association Property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate, nor shall any fire hazard be allowed to exist. The Common Elements shall be used for the purpose of furnishing services and facilities as herein provided for the welfare and enjoyment of the Residents.
- 14.16. Rules and Regulations.** The Board may, from time to time, adopt and amend Rules and Regulations governing the and restricting the use and Maintenance of the Parcels, provided however, that copies of such Rules and Regulations are furnished to each Owner prior to the time that they become effective.
- 14.17. Signs.** One (1) temporary real estate 'For Sale' sign that conforms to the standards and specifications adopted by the Board of Directors is permitted. Such signs may only be posted in locations designated by the Board of Directors.
- 14.18. Temporary or Permanent Structures.** No structure of a temporary character, with a trailer, basement, tent, shack, garage, barn, or other outbuilding, shall be maintained or used on any Parcel or the Association Property at any time as a residence or for any other purpose, either temporarily or permanently. Any structure on which construction has commenced must be completed within a reasonable length of time.
- 14.19. Waste Removal.** No rubbish, refuse, garbage, animal waste, trash or recyclables are to be permitted to accumulate in places other than the receptacles provided therefore. Further, nothing shall be placed outside of a Unit which obstructs the common way of ingress or egress to other Units or the Common Elements. There shall be no burning of trash or other waste material on the Property. Owners shall contact the waste management company for bulk item removal.
- 14.20. Window Coverings.** The covering and appearance of windows and doors, whether by draperies, shades, reflective film, or other items, whether installed within or outside of the Unit, visible from the exterior of the Unit, shall be subject to the Rules and Regulations of the Association.

15. ADDITIONAL RIGHTS OF INSTITUTIONAL MORTGAGEES.

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

15.2. In addition to all other rights herein set forth, Institutional Mortgagees shall have the rights to:

- 15.2.1.** Examine the Association's books; and
- 15.2.2.** Receive the notice of Association meetings and attend such meetings; and
- 15.2.3.** Receive notice of an alleged default by any Owner for which such mortgagee owns a mortgage which is not cured within thirty (30) days of notice to such Owner; and
- 15.2.4.** Receive notice of any substantial damage or loss to any portion of the Condominium Property; and
- 15.2.5.** Receive notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- 15.2.6.** Receive notice of any proposed action which would require the consent of a specified percentage of Institutional Mortgagees; and
- 15.2.7.** Receive notice of any proposed amendment of this Declaration, the Articles, or the Bylaws, which requires the consent of any Institutional Mortgagees, or which affects a change in (i) the boundaries of any Unit or the exclusive easement rights appertaining thereto, (ii) the interests in the general or Limited Common Elements appertaining to any Unit with a liability for Common Expenses appertaining thereto, (iii) the number of votes in the Association appertaining to any Unit, or (iv) the purposes to which any Unit or the Common Elements are restricted; and
- 15.2.8.** Receive notice of any proposed termination of the Condominium, in whole or in part.
- 15.2.9.** As required by Section 718.110, Florida Statutes, any mortgagee consent required under this Section shall not be unreasonably withheld.

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

- 16.1. Duty and Authority to Obtain.** All insurance policies shall be purchased by the Association for the benefit of the Association and the Unit Owners and their mortgagees as their respective interests may appear.
- 16.2. Coverage.** All provisions pertaining to insurance coverage shall be construed in accordance with the Act, and insurance policies purchased by the Association shall be intended to comply with all coverage requirements of the Act.
 - 16.2.1. Casualty.** The Building (including fixtures, installations, or additions comprising that part of the Building within the unfinished interior surface of the perimeter walls, floors, and ceilings of the individual Unit initially installed or replacements thereof of like kind or quality in accordance with the original plans and specifications or as they existed at the time the Unit was initially conveyed if the original plans and specifications are not available and does not include the

following equipment if it is located within a Unit and the Owner is required to repair or replace such equipment: electrical, fixtures, appliances, air-conditioner or heating equipment, water heaters, or built-in cabinets) and Improvements on the Common Elements together with all service machinery contained therein, shall be insured in an amount not less than 100% of the replacement value thereof, excluding foundation and excavation costs, and may contain reasonable deductible limits, all as determined annually by the Board. Such coverage shall afford protection against:

16.2.1.1. Loss or damage by fire and other hazards covered in a standard extended coverage endorsement; and

16.2.1.2. Such other risks as from time to time be customarily covered with respect to buildings similar in construction, location, and use, including but not limited to vandalism and malicious mischief.

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

16.2.3. Fidelity Insurance. The Association shall maintain insurance or a fidelity bond for all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this subsection, the term "persons who control or disburse funds of the Association" includes, but is not limited to, persons authorized to sign checks on behalf of the Association, and the President, Secretary, and treasurer of the Association. The Association shall bear the cost of any insurance or bond.

16.2.4. Machinery Insurance.

16.2.5. Plate Glass Insurance.

16.2.6. Other Insurance. The Association shall obtain and maintain such other insurance as the Board, after consultation with its independent insurance consultant, may from time to time deem to be necessary.

16.3. Waiver of Subrogation. If available and where applicable, the Board shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against the Association Unit Owners, or their respective Family, servants, agents, Guests, or Tenants, except for any claim based on gross negligence evidencing reckless, willful, or wanton disregard for life or property.

- 16.4. 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 and copying by Owners or their authorized representatives upon request.
- 16.5. Premiums.** Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense except that the amount of increase in the premium occasion by misuse, Occupancy or abandonment of any one or more Units or their appurtenances or of the Common Elements by particular Owners shall be Assessed against and paid by such Owners.
- 16.6. Association as Agent.** The Association is hereby irrevocably appointed agent for each Unit Owner and for each owner of a mortgage or other liens upon a Unit and for each owner of any other interest in the Association Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver release upon the payment of claims.
- 16.7. Insurance Shares or Proceeds.** Insurance proceeds of policies purchased by the Association covering property losses shall be paid to the Association, and all policies and endorsements thereon shall be deposited with the Association. The duty of the Association shall be to receive such proceeds as are paid and to hold and disburse the same for the purposes stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares:
- 16.7.1. Common Elements.** Proceeds on account of damage to Common Elements shall be held in as many undivided shares as there are Units, the share of each Unit Owner being the same as his share in the Common Elements.
- 16.7.2. Unit.** 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.
- 16.7.3. Mortgages.** In the event that a mortgage endorsement has been issued as to a Unit, the share of that Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds.
- 16.8. Distribution of Proceeds.** All proceeds of insurance policies purchased by the Association shall be payable to the Association. The duty of the Association shall be to receive such proceeds and hold and disburse them in accordance with the following:
- 16.8.1. Reconstruction or Repair.** If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the Unit Owners, or, at the option of the Board, may be deposited in the Association's reserve fund.
- 16.8.2. Failure to Reconstruct or Repair.** If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be

reconstructed or repaired, the remaining proceeds shall be distributed in accordance with the Plan of Termination.

- 16.9. Unit Owner's Personal Coverage.** Each Owner is responsible for insuring the full replacement of real and personal property within their own Lot and Unit. Each Owner must recognize that they bear financial responsibility for any damage to their property or liability to others that would otherwise be covered by such insurance. It shall be the obligation of the individual Unit Owner, if such Owner so desires, to purchase and pay for insurance as to all such and other risks not covered by insurance carried by the Association.

- 16.9.1. Hazard and Liability Insurance.** Each Unit shall carry hazard and liability insurance including endorsements for leakage, seepage and wind-driven rain, additions and alterations, and loss assessment protection, or recognize that he bears financial responsibility for any damage to his property or liability to others that would otherwise be covered by such insurance. Every hazard insurance policy issued or renewed to an individual Unit Owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property. Each insurance policy issued to an individual Unit Owner providing such coverage shall be without rights of subrogation against the Association that operates the Condominium in which such Unit is located. All real or personal property located within the boundaries of the Unit which is excluded from the coverage to be provided by the Association shall be insured by the individual Unit Owner including all floor, wall, and ceiling coverings, electrical fixtures, appliances, air-conditioner or heating equipment, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of a Unit and serve only one Unit and all air-conditioning compressors that service only an individual Unit, whether or not located within the Unit boundaries. Owners shall also insure all Improvements, additions and modifications (as opposed to replacements of original construction) made to their Unit or Limited Common Elements whether made by themselves or their predecessors in title.

17. CONDEMNATION.

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

- 17.1.1. Determination Whether to Continue Condominium.** Whether the Condominium will be continued after a taking by condemnation will be determined in the same manner provided for determining whether damaged property will be reconstructed or repaired after a Casualty. For this purpose, the taking of condemnation shall be deemed a Casualty.

- 17.1.2. Disbursement of Funds.** If the Condominium is terminated, the proceeds of all awards and other payments will be deemed Association Property and shall be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a Casualty. If the Condominium is not terminated, but the size of the Condominium will be reduced, the Owners of Units to be diminished or eliminated, if any, will first be made whole, and any property damaged by the taking will be made usable in the manner provided below. Proceeds of awards and special Assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursements of funds by the Association after a casualty.
- 17.1.3. Units Reduced but Habitable.** If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable, the awards for the taking of a portion of that Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominiums:
- 17.1.3.1. Restoration of Unit.** The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be assessed against the Owner of the Unit.
 - 17.1.3.2. Distribution of Surplus.** The balance of the award, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and mortgagee(s).
 - 17.1.3.3. Adjustment of Shares in Common Elements.** The shares in the Common Elements appurtenant to the Units that continue as part of the Condominium shall be adjusted to equitably distribute the ownership of the Common Elements among the changed number of Units.
 - 17.1.3.4. 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 Owner and to recondition the remaining portion of the Unit, the amount required for those purposes shall be raised by special Assessments against all of the Unit Owners who will continue as Unit Owners of any Unit after the changes in the Condominiums affected by the taking.
- 17.1.4. Unit Made Not Habitable.** If the condemnation is of an entire Unit or reduces the size of a Unit so that it cannot be made habitable, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:
- 17.1.4.1. Payment of Award.** The award shall be paid first to all Institutional First Mortgagees in an amount sufficient to pay off their mortgages due from those Units which are not habitable; second to the Association for any due and unpaid Assessments; third jointly to the Owners and mortgagees of Units not in an amount to exceed the fair market value of the Unit immediately prior to the taking and with credit being given for payments previously reserved for Institutional First Mortgagees; and the balance, if any, to repairing and replacing the Common Elements.

- 17.1.4.2. Addition to Common Elements.** If possible and practical, the remaining portion of the Unit shall become a part of the Common Elements and shall be placed in condition for use by some or all Owners in a manner approved by the Board of Directors, provided that if the cost of the work shall exceed the balance of the fund from the award for the taking, the work shall be approved in the manner elsewhere required for further Improvement of the Common Elements.
- 17.1.4.3. Adjustment of Shares in Common Elements.** The shares in the Common Elements appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the ownership of the Common Elements among the reduced number of Units. This shall be done by restating the shares of the continuing Units in the Common Elements as percentages of the total numbers representing the shares of these as they existed prior to the adjustment.
- 17.1.4.4. 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 Owner and to condition the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for those purposes shall be raised by special Assessment against Units that will continue as Units after the changes in the Condominium affected by the taking. The Assessments shall be made in proportion to the shares of those Units in the Common Elements after the changes affected by the taking.
- 17.1.4.5. Arbitration.** If the fair market value of a Unit prior to the taking cannot be determined by agreement between the Owner and mortgagee of the Unit and the Association within thirty (30) days after notice by either party, the value shall be determined by appraisal in accordance with the following. The Owner, or the first mortgagee, if any, and the Association shall each appoint one (1) certified real property appraiser, who shall appraise the Unit and determine the fair market value by computing the arithmetic average of their appraisals of the Unit. A judgment of specific performance upon the fair market value calculated in this way may be entered in any court of competent jurisdiction. Each party shall bear the cost of his own appraiser.
- 17.1.4.6. Taking of Common Elements.** Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements useable in the manner approved by the Board; provided, that if the cost of the work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner elsewhere required for further Improvement of the Common Elements. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the Owners in the shares in which they own the Common Elements after adjustment of these shares on account of the condemnation. If there is a mortgage of a Unit, the distribution shall be paid jointly to the Owner and the mortgagees of the Unit.

17.2. Amendment of Declaration. The changes in Units, in the Common Elements, and in the ownership of the Common Elements that are affected by condemnation shall be evidenced by an amendment to the Declaration that need be approved by two-thirds (2/3rds) of all Directors.

18. TERMINATION OF CONDOMINIUM. The Condominium may be terminated under the following alternatives:

18.1. Election. The Condominium shall continue until: (i) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in this Declaration, or (ii) termination of the covenants herein and withdrawal of the Condominium Property from the provisions of the Act by authorization of all Voting Interest in the Association together with the holders of all recorded liens on same.

18.2. Major Damage. There is a destruction of improvements by fire or other casualty in such manner that the apartment building shall not be reconstructed because of major damage as elsewhere herein provided.

18.3. Certificate of Termination. The termination of the Condominium 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.

18.4. Wind-up of Association Affairs. The termination of the Condominium does not by itself terminate the Association. The former Owners and their successors and assigns shall continue to be Members of the Association, and the Members of the Board and the Officers of the Association shall continue to have the powers granted in this 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. Procedures for Termination and Sale. The termination of the Condominium via any method set forth herein shall be as set forth in Section 718.117(4)-(20) of the Act as same is amended from time to time.

18.6. Provisions Survive Termination. The provisions of this Section are covenants running with the land, and shall survive the termination of the Condominium until all matters covered by those provisions have been completed. The Board shall continue to function in accordance with the Bylaws and Articles of Incorporation, and shall have the power to levy Assessments to pay the costs and expenses of Maintaining the Property until it is sold. The costs of termination, as well as post-termination costs of Maintaining the former Condominium Property, are Common Expenses, the payment of which shall be secured by a lien on the beneficial interest owned by each former Owner, which to the maximum extent permitted by law, shall be superior to, and take priority over, all other liens.

18.7. Amendment. This Article may be amended in the same manner in which this Declaration may be amended generally, as set forth in herein.

19. COMPLIANCE AND DEFAULT. Each Owner and the Association shall be governed by and shall comply with the terms of this Declaration and all exhibits annexed hereto, and the Rules and Regulations adopted pursuant to those documents, as the same may be amended from time to time.

The Association and Owners shall be entitled to the following relief in addition to the remedies provided by the Act:

- 19.1. **Negligence.** A Unit Owner shall be liable for any damage, liability, cost, expense, Maintenance, repair, or replacement rendered necessary by his act (neglect, carelessness or intentional), or by that of any member of his Family, or their contractors, Guests, Invitees, employees, agents or Tenants. In the event that an Owner fails or refuses to pay such cost or expense upon demand from the Association, the cost or expense shall become a lien on the Unit and shall be collected in the same manner as Assessments.
- 19.2. **Failure to Maintain.** In the event an Owner fails to Maintain their Unit in the manner herein required, the Association or any other Owner shall have the right to proceed in a court of equity to seek compliance; or the Association shall have the right to assess the Owner and the Unit for the sums necessary to do whatever work is required to put the Owner in compliance herewith, and to collect such Assessments and have a lien therefor as elsewhere provided. In addition, the Association shall have the right, for itself and its employees and agents, to enter the Unit and perform the necessary work to enforce compliance with the above provisions.
- 19.3. **Fines and Suspension of Rights.** The Directors may, pursuant to F.S. 718.303, impose fines not to exceed the maximum permissible by law, and suspend the right to use Common Elements, Common Facilities, or any other Association Property, as permitted by the Act, for failure by Owners, Occupants, Tenants, Guests, Licensees, Invitees, or any Family member thereof to comply with the provisions of the Board policies and resolutions, the Governing Documents, including the Rules and Regulations, and applicable laws.
- 19.4. **Costs and Attorneys' Fees.** In any legal proceeding arising out of an alleged failure of an Owner, other Occupant, Tenant, or Invitee, Guest, or Family member of any of the foregoing, or the Association to comply with the requirements of the Act or the Governing Documents, as amended from time to time, the prevailing party is permitted to recover the costs and expenses of the proceeding and reasonable arbitration, mediation, pre-litigation, trial or appellate attorneys' fees and costs incurred therein or incident to any such proceeding.
- 19.5. **Waiver of Rights.** The failure of the Association or of a Member to enforce any right, provision, covenant or condition which may be granted by the Governing 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 Act may not be waived by an Owner if the waiver would adversely affect the rights of the Owner or defeat the purpose of the provision, except that Owners or Directors may waive notice of specific meetings as provided in the Bylaws.
- 19.6. **No Election of Remedies.** All rights, remedies and privileges granted to the Association or Owners under any terms, provisions, covenants, or conditions of the Governing Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising such other additional rights, remedies, or privileges as may be granted by the Governing Documents, or at law or in equity.

19.7. Right of Association to Evict Tenants, Occupants, Guests, and Invitees. With respect to any person present in any Unit or any portion of the Condominium Property, other than an Owner and the members of their immediate Family permanently residing with them in the Unit, if such person shall materially violate any provision of this Declaration, the Articles, the Bylaws, or the Rules and Regulations, or shall create a nuisance or an unreasonable and continuous source of annoyance to the Residents of the Condominium, or shall damage or destroy any Common Elements or Association Property, then upon written notice by the Association such person shall be required to immediately leave the Condominium Property and if such person does not do so, the Association is authorized to commence an action to compel the person to leave the Condominium Property and, where necessary, to enjoin such person from returning. The expense of any such action, including attorneys' fees, may be charged to the applicable Unit Owner who such person was visiting, or with whose permission such person was present on the Condominium Property, and the Association may collect such sum and have a lien for same as elsewhere provided. The foregoing shall not be deemed to limit, modify, or affect any other rights or remedies available to the Association, or any rights or remedies the Association may have with respect to similar actions by an Owner or a member of their immediate Family residing with them in the Unit. Any eviction of a Tenant shall be accomplished in compliance with any applicable provisions of the Florida Landlord and Tenant Act, Florida Statutes, Chapter 83.

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

- 20.1. Proposal of Amendments.** An amendment may be proposed by the President of the Association, a majority of Directors, or by twenty (20%) percent of the entire Voting Interests.
- 20.2. Notice.** The subject matter of proposed amendments shall be included in the notice of any meeting at which a proposed amendment is to be considered or in connection with documentation for action without a meeting.
- 20.3. Vote Required.** Except as otherwise provided by law, or by specific provision of the Governing Documents, this Declaration may be amended if the proposed amendment is approved at an annual or special meeting of the Members called for the purpose, provided that notice of the proposed amendment has been given to the Members in accordance with law. A resolution for the adoption of a proposed amendment may be adopted by a vote of not fewer than two-thirds (2/3rds) of the total Voting Interests of the Association. Amendments may also be approved by written consent of two-thirds (2/3rds) of the total Voting Interests in the Association.
- 20.4. Recording and Effective Date.** A copy of each amendment shall be attached to a certificate of the Association certifying that the amendment was duly adopted, which certificate shall include the recording data identifying this Declaration and shall be executed by the President and Secretary of the Association with the formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are recorded amongst the public records of the County in which the Condominium is located. Promptly following the effectiveness of this Declaration or of any such amendment, the Association shall provide written notice thereof to each Owner.
- 20.5. Automatic Amendment.** Whenever the Act, Chapter 617, Florida Statutes, or other applicable statutes or administrative regulations, as amended from time to time, are

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

- 20.6. Proviso.** To the extent required by applicable law and judicial precedent, no amendment shall change the configuration of any Unit or the share in the Common Elements appurtenant to it, or increase the Owner's proportionate share of the Common Expenses, unless the Owner of the Unit concerned and all record Owners or other holders of the mortgages on such Unit shall join in the execution of the amendment, and all other Owners approve the amendment. It is the express intention of the Owners that this provision shall not be interpreted or construed to be applicable to the adoption of this Declaration and to the amendments contained herein which have been made to the prior Declarations of Condominium, as previously amended.

21. THE MASTER ASSOCIATION

- 21.1. Generally.** This Condominium is part of and subject to the Master Declaration of Covenants Conditions and Restrictions for MARSH LANDING COMMUNITY ASSOCIATION, INC., recorded in Official Record Book 2725 beginning at Page 664, *et seq.*, and as may be amended in the public records of Lee County, Florida. The Master Covenants contain certain rules, regulations and restrictions relating to the use of Master Association Common Areas (as defined in the Master Covenants) as well as the Condominium Property (including Units). Owners will be Members of the Master Association and will be subject to all of the terms and conditions of the Master Covenants, as amended and supplemented from time to time. Among the powers of the Master Association are the power to assess Members of the Master Association for a share of the expenses of the operation and Maintenance of the Master Association Common Areas and to impose and foreclose liens in the event such Assessments are not paid when due. Unit Owners shall be entitled to use all of the Master Association Common Areas in accordance with and subject to the terms of the Master Covenants.
- 21.2. Enforcement of this Amended and Restated Declaration.** If the Association fails to enforce any provisions of this Amended and Restated Declaration or perform any of its duties and responsibilities hereunder, The Master Association has reserved the right to enforce this Amended and Restated Declaration and perform such duties and responsibilities, including any and all Maintenance provisions, and obtain the payment of the cost of such enforcement and Maintenance pursuant to the Master Covenants. The Master Association has reserved the right to levy special Assessments against the Owners and the Association for expenses incurred by the Master Association on behalf of the Association and shall be entitled to reimbursement of attorneys' fees and court costs incurred during the enforcement by the Master Association of this Amended and Restated Declaration.
- 21.3. Entry Rights.** The Association and each Unit Owner shall permit the Master Association, its designees, or any of its agents or employees to enter upon Common Elements and upon the Owner's Unit to carry out the provisions of this Amended and Restated Declaration with reasonable notice, and such entry shall not constitute a trespass.

- 21.4. Master Association Voting Rights.** In accordance with the provisions of the Governing Documents, all Owners are automatically and irrevocably Members of the Master Association so long as they maintain such ownership. Voting rights are set forth in the Master Association Bylaws.

22. MISCELLANEOUS PROVISIONS.

- 22.1. Applicable Statutes.** The validity, application and construction of this Declaration and its exhibits shall be governed by the laws of Florida, particularly the Act, as amended from time to time.
- 22.2. Savings Clause.** If any provision of the Governing Documents hereto, as the same now exist or as may be later amended or any portion thereof, shall be held invalid by any Court, or other governmental agency with proper authority to so hold, the validity of the remainder of said Governing Documents shall remain in full force and effect.
- 22.3. Interpretation.** The Association and its legal counsel are 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.
- 22.4. Conflicts.** If there is a conflict between any provision of this Declaration and the Act, the Act shall control. In the event of any conflict, the Governing Documents shall take priority in the following order: this Declaration of Condominium, the Articles of Incorporation, Bylaws and then the Association Rules and Regulations, all as amended from time to time.
- 22.5. Captions and Headings.** The headings and captions used in the Governing Documents are solely for the sake of convenience and shall not be considered a limitation of any nature in interpreting the Governing Documents.
- 22.6. Waiver.** The failure of the Association or an Owner to enforce any right, provision, covenant or condition which may be granted by the Governing Documents shall not constitute a waiver of the right of the Association or such Owner to enforce such right, provision, covenant or condition in the future.
- 22.7. Plurality; Gender.** Wherever the context so permits, the singular includes the plural, the plural includes the singular, and the use of any gender includes all or no genders.
- 22.8. Effect of Declaration.** All restrictions, reservations, covenants, conditions, and easements contained herein constitute covenants running with the land and shall rule perpetually unless terminated or amended as provided herein and shall be binding upon all Owners as hereinafter defined, and in consideration of receiving and by acceptance of grant, devise, or mortgage, all grantees, devisees or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons agree to be bound by the provisions hereof, and the Articles and Bylaws. Both the burdens imposed, and the benefits derived shall run with each Unit as herein defined.

Prepared by and return to:

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**AMENDED AND RESTATED BYLAWS OF
MARSH LANDING TOWNHOUSE CONDOMINIUM IX ASSOCIATION, INC.**

1. **GENERAL.** These are the Amended and Restated Bylaws of Marsh Landing Townhouse Condominium IX Association, Inc., (hereinafter "Association), a Florida not-for-profit corporation formed for the purpose of operating a condominium, which is located in Lee County, Florida, upon the lands described in the Declaration of Condominium.
 - 1.1. **Office.** The principal office of the Association shall be at the Condominium or other such location within the County as may from time to time be determined by the Board of Directors.
 - 1.2. **Seal.** A corporate seal for the Association may be, but is not required to be, adopted and updated as necessary by the Board and shall bear the name or abbreviated name of the Association, the word "Florida," the year of establishment, and shall identify the Association as a not-for-profit corporation. A common seal may be used in lieu of a raised corporate seal and in no event shall a seal be required to validate corporate actions unless specifically required by law.
 - 1.3. **Definitions.** All terms used in these Bylaws, whether capitalized or not, shall have the same meaning to the extent applicable, and except where the context would otherwise suggest, as set forth in the Articles of Incorporation for the Association, the Declaration of Condominium and the Florida Condominium Act, Chapter 718, Florida Statutes (the "Act"), all as amended from time to time.
2. **MEMBERS.**
 - 2.1. **Qualification.** The Members of the Association are the record Owners of legal title to the Units in the Association. In the case of a Unit subject to an agreement for deed, the purchaser in possession shall be deemed the Owner of the Unit for purposes of determining voting and use rights.
 - 2.2. **Voting Interests.** The Members of the Association are entitled to one (1) vote for each Unit owned by them. The total number of possible votes (the Voting Interests) of the Association is the total number of Units. The vote of a Unit is not divisible. The Association may suspend the voting rights of a Member for the nonpayment of any monetary obligation due to the Association that is more than ninety (90) days delinquent. If a Parcel is owned by one (1) natural person, the right to vote shall be established by the record title to the Parcel. If a Parcel is owned by more than one individual, a corporation, a partnership or a trust, the Board shall require the use of a Voting Certificate identifying the Member with authority to vote on behalf of each such Parcel.

- 2.3. **Approval or Disapproval of Matters.** Whenever the decision or approval of an Owner is required upon any matter, whether or not the subject of an Association meeting, the decision or other response may be expressed by any person authorized to cast the vote of the Unit at an Association meeting, as stated above, unless the joinder of all record Owners is specifically required.
- 2.4. **Termination of Membership.** Termination of membership in the Association does not relieve or release any former Member from any liability or obligation incurred under or in any way connected with the Condominium during the period of his membership, nor does it impair any rights or remedies the Association may have against any former Owner or Member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

3. MEMBERS' MEETINGS; VOTING.

- 3.1. **Annual Meeting.** The annual meeting of the Members shall be held during the first quarter of the calendar year in Lee County, Florida, each year at a day, place and time designated by the Board, for the purpose of transacting any business duly authorized to be transacted by the Members. During the annual meeting the ballots cast in the annual election of Directors shall be counted and results announced.
- 3.2. **Special Meetings.** Special Members' meetings shall be held whenever called by the President or by a majority of the Board, and shall be called by the President or Secretary within a reasonable time upon receipt of written notice from twenty-five percent (25%) of the Voting Interests of the Association. Members' meetings to recall a Member or Members of the Board may be called by ten percent (10%) of the Voting Interests of the Association who shall give notice of the meeting, stating the purpose of the meeting, pursuant to Section 718.112(2)(j) of the Act.
 - 3.2.1. **Purpose and Notice.** Special Members meetings may be called for any purpose permitted by law. The business conducted at a special Members meeting shall be limited to that stated in the notice of the special Members meeting, which shall include an agenda.
- 3.3. **Notice of Members' Meeting.** Written notice of a meeting of Members stating the time and place and the objects, including a copy of any proposed contracts to be discussed, for which the meeting is called shall be given by the President or, if so delegated, the Secretary. A copy of the notice shall be posted at a conspicuous place on the Association Property and a copy shall be delivered either personally, electronically, or by first class mail to each Member entitled to attend the meeting. The delivery or mailing shall be to the address of the Member as it appears on the roster of Members. The delivery shall be not fewer than fourteen (14) days before the date of the meeting. Proof of posting shall be given by Affidavit, and proof of mailing of the notice shall be given by retention of post office receipts and electronic receipts. Attendance at any meeting by a Member constitutes waiver of notice by that Member unless the Member objects to the lack of notice at the beginning of the meeting. A Member may also waive notice of any meeting at any time by written waiver.
- 3.4. **Quorum.** A quorum at Members' meetings shall consist of persons entitled to cast a majority of the Voting Interests of the entire membership. Decisions made by a majority of the Voting Interests present and voting, in person or by proxy, at a meeting at which a

quorum is present, shall be binding and sufficient for all purposes except such decisions as may by the Act or the Governing Documents require a larger percentage, in which case the percentage required in the Act or the Governing Documents shall govern. To the extent lawful, Members may join in any action taken at a meeting of the Members through written approval of such action executed after the meeting, and such approval shall be as though the Member duly approved the action of the meeting in question.

- 3.5. **Indivisible Vote.** Each Unit shall have one (1) indivisible vote. No individual may cast a vote assigned to a Unit where the voting rights assigned to the Unit are suspended pursuant to the terms of the Governing Documents and Florida law.
- 3.6. **Vote Required.** The acts approved by a majority vote of all those present at the meeting at which a quorum is present shall constitute the acts of the Members, except where approval by a greater number of Members is expressly required by law or by the Declaration, Articles of Incorporation, or these Bylaws.
- 3.7. **Voting Certificate.** If a Unit is owned by more than one individual, a corporation, a partnership or a trust, the Board will require the use of a Voting Certificate identifying the Member with authority to vote on behalf of each such Unit. A Voting Certificate may be revoked at any time by an Owner with a share of the Unit.
- 3.8. **Proxies.** Votes may be cast in person or by proxy. A proxy shall be valid only for the particular meeting for which it is given and any adjournment thereof, and in no event shall such proxy be valid for more than ninety (90) days after the original meeting date. A proxy may permit a proxy holder to appoint a substitute to act in his place. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the vote for the Unit, specify the date, time, and place of the meeting for which it is given, and the original must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof. No proxy shall be valid if it names more than one (1) person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy. No proxy, limited or general, shall be used in the election of Board Members.
- 3.9. **Participation at Meeting By Remote Communication.** Unless prohibited by the Act, if authorized by the Board as provided in Section 617.0721 F.S., and subject to such guidelines and procedures as the Board may adopt, Members and proxy holders who are not physically present at a meeting may, by means of remote communication:
 - 3.9.1. Participate in the meeting.
 - 3.9.2. Be deemed to be present in person and vote at the meeting if:
 - 3.9.2.1. The corporation implements reasonable means to verify that each person deemed present and authorized to vote by means of remote communication is a Member or proxy holder; and
 - 3.9.2.2. The corporation implements reasonable measures to provide such Members or proxy holders with a reasonable opportunity to participate in the meeting and to vote on matters submitted to the Members, including

an opportunity to communicate and to read or hear the proceedings of the meeting substantially concurrent with the proceedings.

3.10. Adjournment. Any duly called meeting of the Members may be adjourned to be reconvened at a later time by vote of the majority of the Voting Interests present, regardless of whether a quorum has been attained. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted when the meeting is reconvened, but only if a quorum is present.

3.11. Order of Business. The order of business at annual Members' meetings and, as far as applicable at all other Members' meetings, shall be substantially as follows:

- A. Election of a Chairman of the meeting, unless the President or Vice-President of the Association is present then they shall preside.
- B. Collection of election ballots.
- C. Checking of signatures and unit identifications on ballot outer envelopes against the eligible voter lists.
- D. Registering proxies and counting votes.
- E. Announcement of the results of the election of Directors.
- F. Proof of notice of the meeting or waiver of notice;
- G. Disposal of unapproved minutes, if any;
- H. Reports of Officers, if any;
- I. Reports of Committees, if any;
- J. Unfinished business;
- K. New business;
- L. Adjournment.

Such order may be waived in whole or in part by direction of the Chairman.

3.12. Parliamentary Rules. Robert's Rules of Order (latest edition) shall be used as a general, non-binding guide in the conduct of Members' meetings, Board meetings, and committee meetings to ensure fairness, impartiality, and respect for minority views without unduly burdening majority rights. Meetings shall also be conducted in accordance with these Bylaws and the procedures established by the Board from time to time, including the form of voting documents to be used. The ruling of the Chair of the meetings, unless he or the Board designates a third person as Parliamentarian, shall be binding on all matters of procedure, unless contrary to law. The failure or alleged failure to adhere to Robert's Rules of Order shall not be used as a basis to legally challenge any action of the Association.

3.13. Minutes. Minutes of all meetings of Members and of the Board of Directors shall be kept in a business-like manner, shall be reduced to written form within thirty (30) days, and shall not be discarded at any time. These, plus records of all receipts and expenditures and all other official records, as defined in F.S. 718.111(12), shall be available for inspection by Members and Board Members at all reasonable times. However, the Directors may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and any copying.

3.14. Action Without a Members Meeting. Unless prohibited by law, any action required to be taken or which may be taken at any Members meeting may be taken without a Members meeting, without prior notice, and without a vote of the Members if a consent in writing, setting forth the action so taken shall be signed by the Members (or persons authorized to cast the vote of any such Member as elsewhere herein set forth) holding not less than the minimum number of Voting Interests that would be necessary to approve such action. Within ten (10) days after obtaining such authorization by written consent, notice must be given to Owners who have not consented in writing. The notice shall fairly summarize the material features of the authorized action.

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

4.1. Number and Terms of Service. The affairs of the Association shall be administered and directed by a Board composed of not less than three (3) Directors. Directors shall serve a term of two (2) years staggered terms. To maintain a staggered Directorate, the Board may hold seats in future elections open for one or two-year terms, when necessary or appropriate. In any election where candidates are elected for different terms, those candidates receiving the higher number of votes shall be elected to the lengthier seat. Directors once duly elected and qualified will serve until their successors are duly elected or until such Director's death, resignation or removal as provided herein. The Act limits the total consecutive terms of service to eight (8) years.

4.2. Qualifications. Each director must be a Member or the spouse of a Member. If a Unit is owned by a corporation, partnership or trust, any officer, director, partner or trustee, as the case may be, shall be eligible to be a Director. No more than one natural person may represent any one Unit on the Board at any given time.

4.2.1. Conflicts of Interest. No Director, or member of his immediate Family, may transact business with the Association, or have any financial interest in any contractor or entity that provides goods or services to the Association. No Director may transact personal business with any Association contractor except on terms at fair market value. No director may serve as the manager or managing agent for the Association during his term as Director or within two years after the term expires. A Director shall promptly disclose in writing to the Board any actual or potential conflict of interest affecting the Director relative to his performance as a Director. A Director's failure to make such disclosure shall be grounds for removal by a majority vote of the other Board members. The Directors shall establish a conflict of interest policy for the employees of the

Association.

4.3. Board of Directors Election; Notice and Procedure. The regular election of Directors shall occur as the first item of business at the annual meeting. The Act and the Florida Administrative Code ("FAC") which may be amended from time to time, contain detailed and specific provisions on the manner in which notices must be sent to Owners and the manner in which the elections must actually be held. Notwithstanding any terms to the contrary set forth in these Bylaws, the Association shall adhere to the provisions of the Act and the Florida Administrative Code and to the extent the Act or the FAC conflict with these Bylaws, the Act and FAC shall control.

4.3.1. First Notice; Candidates. Not less than sixty (60) days before a scheduled election, the Association shall provide to each Member entitled to vote, a first notice of the date of the election. Any person desiring to be a candidate for the Board of Directors shall give written notice to the Association not less than forty (40) days before the scheduled election.

4.3.2. Second Notice; Candidate Information Sheets. Not less than fourteen (14) days nor more than thirty-four (34) days before the election, the Association shall mail, transmit, or deliver a second notice of the election to all Members entitled to vote therein, together with a written secret ballot containing the names of all properly pre-qualified candidates, which that shall include an information sheet (if provided by the candidate), no larger than 8½ inches by 11 inches furnished by the candidate, to be included with the mailing of the ballot, with the costs of mailing and copying to be borne by the Association. The candidate information sheet must be received by the Association not less than thirty-five (35) days prior to the election.

4.3.3. There is no quorum requirement necessary for an election. However, at least twenty percent (20%) of the Voting Interests of the Association must cast a ballot in order to have a valid election, and elections shall be decided by a plurality of those votes cast.

4.3.4. In the event of a tie for a designated position on the Board, the tie shall be resolved by agreement of the candidates, if possible; otherwise a runoff election must be held in accordance with real 61B-23.0021 of the Florida Administrative Code.

4.3.5. In the event that there are only as many (or fewer) candidates pre-qualified for election as there are open seats on the Board, no election shall be held, and the pre-qualified candidates shall automatically become Members of the Board after the annual meeting.

4.3.6. The Board may establish additional election rules as it deems appropriate to ensure a fair election process. Substantial compliance with these Bylaws and the Act relative to election procedures is sufficient.

- 4.3.7. Electronic Voting.** The Association may conduct the election of Directors through an internet-based online voting system if a written consent is received from the Owner and the provisions of Section 718.128, Florida Statutes, are allowed. A voting machine may also be used by those attending the meeting in person, and a Unit Owner who needs assistance in voting due to blindness, disability or inability to read or write may obtain assistance from a Member of the Board or other Unit Owner but no Unit Owner shall permit another person to cast their ballot and any such ballots improperly cast shall be deemed invalid.
- 4.4. Vacancies.** Vacancies on the Board may be filled by appointment by a majority vote of the remaining Directors for the remainder of the unexpired term, unless the Board votes to have the vacancy filled by a special election of the Owners. When a Director has been recalled by the membership, the vacancy created by his removal cannot be filled with the same natural person as has been removed from the Board. When a majority of the Board has been recalled, vacancies shall be filled by the membership, as provided by law.
- 4.5. Removal.** Any or all Directors may be removed with or without cause by a majority vote of the entire Voting Interests, either by a written petition, or at any meeting called for that purpose, in the manner required by the Act. A Special Members Meeting for recall may be called by Owners holding ten percent (10%) of the Voting Interests in the Association.
- 4.6. Resignation.** Any Director of the Association may resign at any time, by a written instrument, including but not limited to notice provided via electronic mail to the President or Secretary. Resignations shall take effect at the time specified in the written instrument, and if no time is specified, resignations shall take effect at the time of receipt of such resignation. Resignations cannot be rescinded after being given, even if not effective until a later date. The acceptance of a resignation shall not be necessary to make it effective. Any Director or Officer more than 90 days delinquent in the payment of any monetary obligation due the Association shall be deemed to have abandoned the office, creating a vacancy in the office to be filled according to law.
- 4.7. Organizational Meeting.** The organizational meeting of each newly-elected Board of Directors to elect Officers shall be held at such place and time as shall be fixed by the Directors, provided a quorum shall be present. Unless otherwise noticed, the organizational meeting shall be held no later than ten (10) days following the annual meeting of the Members.
- 4.8. Regular Meetings of the Board.** Regular meetings of the Board may be held at such time and place as may be determined from time to time by a majority vote of the Directors. Notice of regular meetings shall be mailed, transmitted, or delivered to each Director at least forty-eight (48) hours prior to the date of such meeting and notice shall be posted in a conspicuous place on the premises at least forty-eight (48) hours prior to the meeting. In an Association of more than 10 Units, the Board of Directors shall meet at least once each quarter. At least four times each year, the meeting agenda must include an opportunity for Members to ask questions of the Board.
- 4.9. Special Meetings of the Board.** Special meetings of the Directors may be called by the President at any time and must be called at the written request of two (2) of the Directors. Members may call a special meeting by delivering to the Board a written petition setting forth the purpose of the special meeting of Members in good standing holding twenty

(20%) percent of the total Voting Interests and such special meeting must be held within sixty (60) days after the Board's receipt of the petition. Except in the case of an emergency, not less than forty-eight (48) hours' notice of such meetings shall be given. Notice may be mailed, transmitted, or delivered, which notice shall state time, place, and purpose of the meeting and notice shall be posted in a conspicuous place on the premises at least forty-eight (48) hours prior to the meeting.

- 4.10. **Waiver of Notice.** Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice provided herein. If all Directors are present at a meeting, no notice to Directors shall be required and any business may be transacted at such meetings.
- 4.11. **Notice to Owners of Board Meetings.** Meetings of the Board shall be open to Members except for meetings between the Board and its attorney with respect to proposed or pending litigation where the discussion would otherwise be governed by the attorney-client privilege. The right of Owners to attend Board meetings includes the right to speak on all designated agenda items subject to reasonable rules adopted by the Board governing the manner, duration, and frequency of doing so. Notices of all Board meetings shall be posted conspicuously in the community at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency, and must contain an agenda of topics to be discussed. Notice of any Board meeting at which rules affecting the use of a Unit, special Assessments, or if an agenda item relates to the approval of a contract for goods or services are to be considered, the agenda shall specifically contain a statement that rules, special Assessments or contracts will be considered and the nature of the rule, Assessments, or contracts and shall be mailed, transmitted, or delivered to Members and posted at least fourteen (14) days in advance. If an agenda item relates to the approval of a contract for goods or services, a copy of the contract must be provided with the notice.
- 4.12. **Quorum of Board of Directors.** At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business. Directors may participate in any meeting of the Board, or meeting of an executive or other committee, by means of a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting.
- 4.13. **Vote Required.** The acts approved by a majority of those Directors present and voting at a meeting at which a quorum has been attained shall constitute the acts of the Board, except when approval by a greater number of Directors is required by the Governing Documents or by applicable statutes. A Director who is present at a meeting of the Board is deemed to have voted in favor of every action taken unless they voted against such action or abstained from voting because of an asserted conflict of interest. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes of each meeting. Directors may not vote by proxy or secret ballot at Board meetings, except that secret ballots may be used in the election or removal of Officers.
- 4.14. **Adjourned Meetings.** A majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specified later time. When the meeting is reconvened, provided a quorum is present, any business that might have been transacted at the meeting originally called may be transacted.

Association in accordance with good accounting practices and shall perform all other duties incident to the office of the Treasurer of a corporation.

- 5.5. Indemnification of Officers.** Every Director and Officer of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon them in connections with any proceedings to which they may be a party, or in which they may become involved, by reason of them being or having been an Officer or Director of the Association, or any settlement thereof, whether or not they are a Director or Officer at the time such expenses are incurred, except in such cases wherein the Director or Officer is adjudged guilty or willful misfeasance or malfeasance of these duties, provided that in the event of a settlement, the indemnification herein shall apply only when the Board approved such settlement and reimbursement as being for the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled and not provided for.

- 6. POWERS AND DUTIES OF THE BOARD OF DIRECTORS.** All of the powers of the Association existing under the laws of Florida generally, Florida Not-For-Profit Corporation Statute, the Condominium Act, and the Governing Documents, all as amended from time to time, shall be exercised exclusively by or under the direction of the Board, or a duly authorized Board member, Officer, committee member, agent, contractor, or employee, when said powers or duties have been delegated by the Board, subject only to the approval by Members when such is specifically required. The powers of the Directors shall include, but not be limited to, the following:

- 6.1. Operation, care, upkeep and Maintenance of the Common Elements;
- 6.2. Determination of the expenses required for the operation of the Condominium and Association;
- 6.3. Collection of Assessments for Common Expenses from Owners required to pay same;
- 6.4. Employment and dismissal of the personnel necessary for the Maintenance and operation of the Common Elements;
- 6.5. Adoption and amendment of the Rules and Regulations concerning the details of the operation and use of the Condominium Property, subject to a right of the Owners to overrule the Board as provided herein;
- 6.6. Maintaining bank accounts on behalf of the Association and designating the signatories required therefor;
- 6.7. Enter into a contract with any person, firm or entity for the operation, Maintenance, or repair of the Condominium Property. However, any such contract shall not be in conflict with the rights of Owners in accordance with the Act;
- 6.8. Purchasing Units at foreclosure or other judiciary sales, in the name of the Association or its designee;
- 6.9. Selling, Leasing, mortgaging or otherwise dealing with Units acquired by, and subleasing Units Leased by, the Association, or its designee;

- 6.10. Organizing corporations to act as designated agents of the Association in acquiring title to or Leasing Units by the Association;
- 6.11. Obtaining and reviewing insurance for the Condominium Property;
- 6.12. Making repairs, additions, and Improvements to, or alterations of, the Condominium Property, in accordance with the provisions of the Declaration after damage or destruction by Casualty or as result of condemnation or eminent domain proceedings;
- 6.13. Enforcing obligation of the Owners, allocating profit and expenses and doing anything and everything necessary and proper for the sound management of the Condominium;
- 6.14. Levying fines against the Owners for violations of the Rules and Regulations established by it to govern the conduct of the Owners;
- 6.15. Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep and Maintenance of the Common Elements, provided, however, that the consent of the Owners of at least two-thirds (2/3) of the Units, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required for the borrowing of any sum which would cause the total outstanding indebtedness of the Association to exceed \$10,000;
- 6.16. Contract for the management of the Condominium and delegate to such contractor such powers and duties of the Board as the Board may deem appropriate under the circumstances, except those which may be required by the Declaration and these Bylaws to be approved by the Board or other Owners; to contract for the management or operation of portions of the Condominium Property susceptible to separate management or operation thereof; and to grant concessions for the purpose of providing services to the Owners. In exercising this power, the Association may contract with affiliates of itself provided that such contracts do not involve undisclosed or unlawful self-dealing or undisclosed relationships with Board Members;
- 6.17. At its discretion, to authorize Owners or other persons to use Common Elements, including but not limited to social rooms, meeting rooms, pool terraces, etc. for private parties and gatherings and to impose reasonable Charges for such private uses;
- 6.18. To exercise all powers specifically set for in the Condominium Documents and the Act and all powers incidental thereto;
- 6.19. To suspend the right of any Member to use the recreational facilities of the Condominium so long as said Member is delinquent in the payment of Common Expense;
- 6.20. To impose lawful fees in connection with the approval of the Transfer, Lease, Sale, or Sublease of Units, not to exceed amounts permitted by Florida Statutes as amended from time to time;
- 6.21. Contracting with and creating or joining in the creation of special taxing districts, joint councils and the like;
- 6.22. To adopt hurricane shutter specifications for the Condominium which shall include color, style, and other factors deemed relevant by the Board. All specifications adopted by the Board shall comply with the applicable building code, or shall be structured to ensure that

installed shutters are in compliance with the applicable building code. The Board shall not refuse to approve the installation or replacement of hurricane shutters conforming to the specifications adopted by the Board, provided that the Board may condition approval upon the Member's agreement to execute appropriate documentation regarding same.

6.23. To exercise the emergency powers described in this Article, and any other emergency powers authorized by Section 617.0207, Florida Statutes, Section 617.0303, Florida Statutes, and the Act, all as amended from time to time.

6.23.1. The Board may name as assistant Officers persons who are not Directors, which assistant Officers shall have the same authority as the Executive Officers to whom they are assistant during the period of the emergency, to accommodate the incapacity of any Officer of the Association.

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

6.23.3. During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.

6.23.4. Corporate action taken in good faith during an emergency under this Article to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttable presumption of being reasonable and necessary.

6.23.5. Any Officer, Director, or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency Bylaws shall incur no liability for doing so, except in the case of willful misconduct.

6.23.6. These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

6.23.7. For purposes of this Article only, an emergency exists only during a period of time that the Association, or the immediate geographic area in which the Association is located, is subjected to:

6.23.7.1. a state of emergency declared by local civil or law enforcement authorities;

6.23.7.2. a hurricane warning;

6.23.7.3. a partial or complete evacuation order;

6.23.7.4. federal or state "disaster area" status;

6.23.7.5. a catastrophic occurrence, whether natural or manmade, which seriously damages or threatens to seriously damage the physical existence of the Association, such as an earthquake, tidal wave, fire, hurricane, tornado, war, civil unrest, or act of terrorism; or

- 6.23.7.6.** an unanticipated set of circumstances, which, if not acted upon with immediacy, is likely to cause imminent and significant financial harm to the Association, the Members, or Association Property.

An "emergency" also exists for purposes of this Section during the time when a quorum of the Board cannot readily be assembled because of the occurrence or impending occurrence of a catastrophic event, such as a hurricane, earthquake, act of war or terrorism, or other similar event. A determination by any two (2) Directors, or by the President, that an emergency exists shall have presumptive validity.

7. FISCAL MANAGEMENT. The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions.

- 7.1. Fiscal Year.** The fiscal year of the Association shall be the calendar year. Upon a majority vote of the Board, it may adopt a different fiscal year.
- 7.2. Budget.** The Board of Directors shall adopt a budget of Common Expenses for each fiscal year. A copy of the proposed budget, and a notice stating the time, date and place of the meeting of the Board at which the budget will be adopted, shall be mailed to or served on the Owners of each Unit not less than fourteen (14) days before that meeting. The proposed budget must be detailed and must show the amounts budgeted by income and expense classifications, including without limitation as those specified in The Condominium Act.

If an adopted budget requires Assessments against the Units in any fiscal year which exceed one hundred fifteen percent (115%) of the Assessments for the preceding fiscal year, the Board shall conduct a special meeting of the Members to consider a substitute budget if the Board receives, within twenty-one (21) days after adoption of the annual budget, a written request for a special meeting from at least ten percent (10%) of all Voting Interests. The special meeting shall be conducted within sixty (60) days after adoption of the annual budget. At least fourteen (14) days prior to such special meeting, the Board shall deliver to each Member or mail to each Member at the address last furnished to the Association, a notice of the meeting. An Officer or manager of the Association, or other person providing notice of such meeting shall execute an affidavit evidencing compliance with this notice requirement. Such affidavit shall be filed among the official records of the Association. At the special meeting, Members shall consider and enact a substitute budget. The adoption of the substitute budget requires a vote of not less than a majority vote of all the Voting Interests. If a meeting of the Members has been called and a quorum is not attained or a substitute budget is not adopted by the Members, the budget adopted by the Board of Directors goes into effect as scheduled. In determining whether Assessments exceed one hundred fifteen percent (115%) of similar Assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the Condominium Property, anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis, or Assessments for betterments to the Condominium Property must be excluded from the computation.

If an annual budget has not been adopted at the time the first installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last installment and shall be continued at such rate until a new budget is adopted and Assessments are calculated, at which time any overage or shortage shall be added to or subtracted from each Unit's next installment due.

- 7.3. Statutory Reserves for Capital Expenditures and Deferred Maintenance.** In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures, deferred maintenance, and structural integrity reserve studies as required by law, subject to the Condominium Act, as amended from time to time. These accounts shall include but not be limited to roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance or replacement cost, and for any other item for which the deferred maintenance or replacement cost exceeds an estimated cost of \$10,000.00. The amount to be reserved for each item shall be computed by a means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of the item. The Association may adjust replacement reserve Assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item due to deferred maintenance. These reserves shall be fully funded unless the Members determine by a majority of the voting interests present at a duly called meeting of the Association, or in any other manner provided by law, to waive or reduce funding of reserves for any given fiscal year. The vote to waive or reduce reserves, if any is taken, may be taken only after the proposed budget has been mailed to the Unit Owners as required in above. Reserve funds, and all interest earned on said funds, shall be used only for the purposes for which the reserve account was established and is maintained, unless their use for other purposes is approved in advance by a majority vote of the Members at a duly called meeting of the Association, or in any other manner provided by law.
- 7.4. Regular Assessments.** All regular Assessments for Common Expenses shall be paid in monthly or quarterly installments (as determined by the Board), in advance of the first day of each period and shall become delinquent 10 days thereafter. Written notice of each monthly or quarterly installment shall be sent to all Members by or on behalf of the Treasurer, but failure to receive such notice does not excuse the obligation to pay. The Association shall have the right to accelerate Assessments of an Owner delinquent in the payment of Common Expenses. Accelerated Assessments shall be due and payable on the date a claim of lien is filed and may include the amounts due for the remainder of the fiscal year for which the claim of lien was filed.
- 7.5. Special Assessments.** Special Assessments may be made when necessary to meet unusual, unexpected, emergency, or non-recurring expenses or for such other purposes as are authorized by the Declaration or these Bylaws. Special Assessments shall be due at such time as is specified in the resolution of the Board approving such Assessment. Written notice of any Board meeting at which a non-emergency special Assessment will be considered, must be mailed to all Owners at least fourteen (14) days in advance, which notice shall state that Assessments will be considered and the nature of any such Assessments. The notice to Owners that any special Assessment has been levied must contain a statement of the purpose(s) of the Assessment, and the funds collected must be spent for the stated purpose(s). If any funds remain upon completion of the purpose(s) such excess funds may, at the discretion of the Board, either be returned to the Owners or applied as a credit towards future Assessments.

- 7.6. **Assessments for Charges.** Charges by the Association against Members for other than Common Expenses shall be payable in advance. These charges may be collected by Assessment in the same manner as Common Expenses, and when approval of a Member or when expressly provided for in the Declaration or the exhibits annexed thereto as the same be amended from time to time, which Charges include without limitation Charges for the use of the Condominium Property or recreational area, Maintenance services furnished at the expense of a Member and other services furnished for the benefit of a Member.
- 7.7. **Liability for Assessments and Charges.** A Member shall be liable for all Assessments and Charges coming due while the Owner of a Unit, and such Member and Member's grantees or successors, after a conveyance or other transfer of title, shall be jointly and severally liable for all unpaid Assessments and Charges due and payable up to the time of such voluntary conveyance. Liability may not be avoided by waiver of the use or enjoyment of any Common Elements or Association Property or by abandonment of the Unit for which the Assessments or Charges are due. Where a mortgagee holding a first mortgage of record obtains title to a Unit by foreclosure, such mortgagee shall be liable for such Unit's unpaid Assessments, Charges, or share of the Common Expenses which became due prior to acquisition of such mortgagee's title as provided in the Act. Such mortgagee or its successors and assigns are liable for all Assessments and Charges accruing after their taking of title.
- 7.8. **Association Depository.** The depository of the Association, in which the funds of the Association shall be deposited, shall be financial institutions authorized to do business in Florida which carry **FDIC** insurance or equivalent insurance, provided that such insurance is backed by the full faith and credit of the United States of America. All deposits shall be within the limits of such insurance. Withdrawal of money from those accounts shall be only by checks or other withdrawal instruments signed by those persons as are authorized by the Directors or by electronic transfer protocols approved by the Board of Directors.
- All funds collected by the Association shall be maintained separately in the Association's name, except that for investment purposes only, reserve funds may be commingled with operating funds, but must always be accounted for separately and the balance in a commingled account may not, at any time, be less than the amount identified as reserve funds.
- The Board may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities, and other similar investment vehicles.
- 7.9. **Commingling of Funds Prohibited.** All funds of the Association shall be maintained separately in the Association's name. No community association manager or business entity required to be licensed or registered under Section 468.432, Florida Statutes, as amended from time to time, no agent, employee, Officer, or Director of the Association shall commingle any Association funds with his funds or with the funds of any other community association as defined in Section 468.431, Florida Statutes, as amended from time to time, or with those of any other entity. Reserve funds and operating funds of the Association may be commingled for investment purposes, as provided by law.

- 7.10. Fidelity Bonding.** The Association shall obtain and maintain adequate fidelity bonding in the minimum principal sum set forth in the Act, for each person (whether or not a Director) who controls or disburses Association funds, and the President, Secretary, and Treasurer. The Association shall bear the cost of any such bonding of Directors and Officers. In the case of a community association manager or management firm, the cost of bonding may be allocated as the parties may agree. All persons providing management services to the Association, or otherwise having the authority to control or disburse Association funds, shall provide the Association with a certificate of insurance evidencing compliance with this paragraph, naming the Association as an insured under said policy.
- 7.11. Financial Reports.** A complete financial report of actual receipts and expenditures of the Association shall be made annually which shall comply with Rule 61B-22, Florida Administrative Code, as amended from time to time, and with the Act.
- 7.12. Financial Information.** Not later than ninety (90) days after the close of each fiscal year, the Association shall prepare a financial statement showing in reasonable detail the financial condition of the Association as of the close of its fiscal year and a profit and loss statement for the year, detailed by accounts. The Association shall provide each Member with a copy of the financial report or a written notice that a copy of the financial report is available upon request at no charge to the Member. The financial report may be delivered by United States mail or personal delivery at the mailing address, property address, e-mail address, or facsimile number provided to fulfill the Association's notice requirements.
- 8. RULES AND REGULATIONS; USE RESTRICTIONS.** The Board may, from time to time, adopt and amend administrative Rules and Regulations concerning the transfer, use, appearance, Maintenance, and Occupancy of the Units, Common Elements, Limited Common Elements, and Association Property, and to enact rules, policies, guidelines, and resolutions pertaining to the operation of the Association, subject to any limitations contained in the Declaration.
- 9. COMPLIANCE AND DEFAULT: REMEDIES.** In addition to the remedies provided in the Condominium Documents, the following provisions shall apply:
- 9.1. Correction of Health and Safety Hazards.** Any violations of the Association rules which creates conditions of the Property which are deemed by the Board to be a hazard to the public health or safety may be dealt with immediately as an emergency matter by the Association, and the cost thereof shall be charged to the Owner.
- 9.2. Liens for Assessments.** If any Member fails or refuses to make payments of any Assessment when due, the amount thereof shall constitute a lien on the Member's Unit. The Board shall have the authority to exercise and enforce all rights and remedies under the Florida Statutes, the Declaration, and these Bylaws, or otherwise available at law or in equity for the collection of all unpaid Assessments and enforcement of all Rules and Regulations.
- 9.3. Fines and Suspension of Rights.** The Directors may, pursuant to F.S. 718.303, impose fines not to exceed the maximum permissible by law, and suspend the right to use Common Elements, Common Facilities, or any other Association Property, as permitted by the Act, for failure by Owners, Occupants, Tenants, Guests, Licensees, Invitees, or any

Family member thereof to comply with the provisions of the Board policies and resolutions, the Condominium Documents, including the Rules and Regulations, and applicable laws.

9.3.1. A fine may be imposed for each day of continuing violation at the highest rate allowed by law per violation with a single notice and opportunity for hearing, provided that no fine shall in the aggregate exceed the maximum amount permissible by law. A suspension shall be imposed and enforceable for a reasonable amount of time, as determined by the Board, and subject to the confirmation or rejection of the independent committee specified herein.

9.3.2. The Member and, if applicable, the party against whom the fine or suspension is sought to be imposed (if different from the Member), shall be afforded an opportunity for hearing by being given notice of not less than fourteen (14) days. Notice shall be deemed effective when mailed by United States mail, certified, return receipt requested, to the address of the Member listed in the official records of the Association. The notice shall include:

9.3.2.1. A statement of the date, time, and place of the hearing;

9.3.2.2. A statement of the provisions of the Declaration, Articles, Bylaws, Rules and Regulations, Board policies and resolutions, or laws that have allegedly been violated; and

9.3.2.3. A short and plain statement of the matters asserted by the Association.

9.3.3. Hearing. The Member and, if applicable, the party against whom the fine or suspension is sought to be imposed (if different from the Member), shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. The hearing shall be held before a committee of Members appointed by the Board, which may not include Board Members, immediate Family members of Board members nor persons residing in a Board Member's household. If the committee does not confirm the fine or suspension, the fine or suspension may not be imposed. Members shall be jointly and severally liable for the payments of fines imposed against and suspension imposed upon Occupants, Tenants, Guests, Licensees, Invitees, or any Family members thereof.

9.4. Suspensions. The Board of Directors has the right to suspend certain use rights and voting rights in accordance with the following:

9.4.1. Suspension of Use Rights. If an Owner is more than ninety (90) days delinquent in paying a fee, fine, or other monetary obligation due to the Association, the Board may suspend the right of the Owner or the Unit's Occupants, Guests, Tenants or other Invitees to use Common Elements, Common Facilities, or any other Association Property until the fee, fine, or other monetary obligation is paid in full. Suspension does not apply to Limited Common Elements intended to be used only by that Unit, Common Elements needed to access the Unit, utility services provided to that Unit, or parking spaces. The Notice and Hearing requirements do not apply to suspensions imposed for financial delinquencies.

9.4.2. Suspension of Voting Rights. The Board of Directors may suspend the voting rights of a Unit or an Owner due to nonpayment of any fee, fine, or other monetary obligation due to the Association which is more than ninety (90) days delinquent. The suspension ends upon full payment of all obligations currently due or overdue to the Association. The notice and hearing requirements do not apply to suspensions imposed for financial delinquencies. At least ninety (90) days before an election, the Association must notify a Unit Owner that his or her voting rights may be suspended due to a nonpayment of a fee or other monetary obligation.

9.5. Member Inquiries. When a Member files a written inquiry by certified mail with the Board, the Board shall respond in writing to the Member within thirty (30) days of receipt of said inquiry. The Board's response shall either give a substantive response to the inquirer, or notify the inquirer that legal advice has been requested, or notify the inquirer that advice has been requested from the Association's counsel or the Division. If the Board requests advice from the Division, the Board shall, within ten (10) days of its receipt of the advice, provide in writing a substantive response to the inquirer. If a legal opinion is requested, the Board shall, within sixty (60) days after the receipt of the inquiry, provide in writing a substantive response to the inquirer. The failure to provide a substantive response to the inquirer, as provided herein, precludes the Association from recovering attorneys' fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry. Absent a different rule adopted by the Board of Directors, the Board shall only be obligated to respond to one inquiry per month pertinent to any particular Unit. In the event of a grievance of a Member against the Association, the Board of Directors, or a Member thereof, written notice in detail of the grievance shall be given the Directors prior to the institution of litigation, (including but not limited to arbitration), and they shall be allowed a period of thirty (30) days in which to resolve the grievance.

9.6. Mandatory Arbitration. Where required by the Act, binding arbitration and non-binding mediation shall be used in an attempt to resolve disputes prior to commencing litigation. When the Act does not so require, the Board may seek to resolve disputes by such means or by immediate petition of the courts as it deems appropriate.

9.7. Costs and Attorneys' Fees. In an action brought by or on behalf of the Association against an Owner, the prevailing party shall be entitled to recover the cost thereof, together with reasonable attorneys' fees.

9.8. Availability of Remedies. Each Member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all Members to give the Association methods and procedures which will enable it to operate on a business like basis, to collect those monies due it and to preserve the right of the majority to enjoy the Condominium Property free from unreasonable disruptions and annoyance of the minority.

10. THE MASTER ASSOCIATION. By taking title to a Lot, an Owner also becomes a Member of Marsh Landing Community Association., Inc., (the "Master Association") and is subject to the

terms and conditions of the Declaration of Covenants, Conditions, and Restrictions for the Master Association.

10.1. Master Association Assessments. Pursuant to the Master Declaration, the Master Association has the right to assess its Members for all expenses incurred in the performance of its duties. These Assessments are collected directly by the Master Association from each Member.

10.2. Master Association Voting Rights. In accordance with the provision of the Governing Documents, all Owners are automatically and irrevocably Members of the Master Association. Voting rights are set forth in the Master Association Bylaws.

11. BYLAW AMENDMENTS. Amendments to the Bylaws shall be adopted in the following manner:

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

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

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

11.4. Adoption of Amendments. A resolution for the adoption of a proposed amendment may be adopted by a vote of at least a majority of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum has been attained, or by the written agreement of at least a majority of the entire Voting Interests. Amendments correcting errors, omissions, scrivener's errors, violations of applicable law, conflicts between the Condominium Documents, or if determined necessary and desirable by the Board to comply with the requirements of the secondary mortgage market, may be executed by the Officers of the Association, upon Board approval, without need for Association membership vote.

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

11.6. Automatic Amendment. These Bylaws shall be deemed amended, if necessary, so as to make the same consistent with the provisions of the Declaration or the Articles of Incorporation. Whenever the Act, Chapter 617, Florida Statutes, or other applicable statutes or administrative regulations, as amended from time to time, are amended to impose procedural requirements less stringent than set forth in these Bylaws, the Board may operate the Association pursuant to the less stringent requirements without the need

to change these Bylaws. The Board of Directors, without a vote of the Owners, may also adopt by majority vote, amendments to these Bylaws as the Board deems necessary to comply with such operational changes as may be enacted by future amendments to Chapters 607, 617, and the Act, or such other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.

- 11.7. **Proviso.** To the extent required by applicable law and judicial precedent, no amendment shall change the configuration of any Unit or the share in the Common Elements appurtenant to it, or increase the Unit Owner's proportionate share of the Common Expenses, unless the record Owner of the Unit concerned and all record Owners or other holders of the mortgages on such Unit shall join in the execution of the amendment, and all other Owners approve the amendment.

12. **MISCELLANEOUS.** The following miscellaneous provisions shall apply to these Bylaws and the Condominium Documents.

- 12.1. **Conflicts.** The term "Governing Documents," as used in these Bylaws and elsewhere shall include the Declaration, Articles of Incorporation, these Bylaws, the Rules and Regulations of the Association and the Plat. In the event of a conflict between the language in the Declaration and the Plat, the Plat shall control. In the event of a conflict between language in any of the other Governing Documents, the following priorities shall control:

- 1) Declaration of Condominium;
- 2) Articles of Incorporation;
- 3) Bylaws; and
- 4) Rules and Regulations.

- 12.2. **Severability.** In the event that any provision of these Bylaws is deemed invalid, the remaining provisions shall be deemed in full force and effect.

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

- 12.4. **Headings.** The headings herein and in the exhibits annexed hereto are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the particular document or any provision thereof.