

**DECLARATION OF CONDOMINIUM FOR SAWMILL VILLAS  
CONDOMINIUM ASSOCIATION, INC.**

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**SECOND AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR SAWMILL VILLAS CONDOMINIUM ASSOCIATION, INC.**

(SUBSTANTIAL REWORDING OF DECLARATION AND BYLAWS. PLEASE SEE ORIGINAL DECLARATION AS RECORDED IN OFFICIAL RECORD BOOK 1582, AT PAGE 1783, ET. SEQ; 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 Sawmill Villas Condominium Association, Inc., a Florida Corporation not for profit, hereinafter the "Association". The land subject to this Declaration and the improvements located thereon have already been submitted and are hereby re-submitted to condominium Ownership and use pursuant to Chapter 718, Florida Statutes (the "Condominium Act"), as 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.** The name by which this Condominium is identified is "Sawmill Villas".
3. **OBJECT AND PURPOSE.** The purpose and object of this Declaration and of the Condominium is to maintain a quiet, tranquil and Single Family oriented atmosphere where the Residents and other Occupants can live or reside in compatible coexistence with other financially responsible persons who are acceptable both in fitness and character and comportment, subject to compliance with the fair housing laws. This objective is considered to be both necessary and appropriate because of the necessity of sharing Common Facilities by Owners and Tenants, and because of the large personal financial investment of each Owner.
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 Condominium 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. **“Adult Residential Community”** means housing for older persons intended and operated for occupancy by at least one person fifty-five (55) years of age or older as defined by the Fair Housing Amendment Act of 1988.
- 5.3. **“Articles” or “Articles of Incorporation”** means the Articles of Incorporation of the Association as they may be amended from time to time in accordance with the provisions thereof and of this Declaration.
- 5.4. **“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.
- 5.5. **“Association”** means Sawmill Villas Condominium Association Inc., a Florida corporation not-for-profit, which is the corporate entity responsible for the operation of the Condominium.
- 5.6. **“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.
- 5.7. **“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 Condominium Act as the "Board of Administration."
- 5.8. **“Buildings”** means the structures in which the Units and portions of the Common Elements are located.
- 5.9. **“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.
- 5.10. **“Charge”** means any legal or equitable indebtedness or monetary obligation of an Owner to the Association, or other sums owed to or due to the Association from an Owner, or any cost or expense incurred by the Association on behalf of or because of an Owner, other than Assessments for Common Expenses, which the Owner is obligated to pay to the Association. Said obligations may arise by oral or written contract, by law or in equity, or may be created by these Condominium Documents.
- 5.11. **“Committee”** means a group of Board members, Unit Owners, or Board members and/or Unit Owners and/or other persons appointed by the Board to make reports or recommendations to the Board, to take action on behalf of the Board, or to take such actions as the resolution creating the Committee, or the Directors of the Board, may dictate.
- 5.12. **“Common Areas” or “Common Facilities”** means the portions of the Property not included in the Units and shared among Owners and Members.
- 5.13. **“Common Elements”** means and includes:
  - The portions of the Condominium 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 Condominium 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 Condominium Property.

- 5.14. "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.
- 5.15. "Common Surplus"** means the excess of all receipts of the Association, including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements, above the amount of the Common Expenses. Common Surplus shall be owned in the same undivided percentages as Common Elements are owned.
- 5.16. "Condominium Parcel"** means a Unit together with the undivided share in the Common Elements which is appurtenant to said Unit and when the context permits, the term includes all of the appurtenances to the Unit.
- 5.17. "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 Condominium Act.
- 5.18. "Family" or "Single Family"** means any one (1) of the following:
- One (1) natural Person, his spouse, if any, and his 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.
- 5.19. "Governing Documents"** means this Declaration, the Articles, the Bylaws and any Rules and Regulations adopted by the Board, as amended from time to time.

- 5.20. **“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 Condominium 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.
- 5.21. **“Improvements”** means all structures and artificial changes to the natural environment (exclusive of landscaping) located on the Condominium Property.
- 5.22. **“Institutional Mortgagee”** means the mortgagee (or its assignee) of a mortgage encumbering a Condominium Parcel, which mortgagee is a bank, savings and loan association, mortgage company, insurance company, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any other institutional lender providing financing of acquisition, development or construction, or any agency of the United States of America. The term also refers to any holder of a mortgage against 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.
- 5.23. **“Invitee” or “Licensee”** means a person expressly or impliedly allowed entry onto the Condominium Property for the purpose of conducting business with or providing services to a Unit or an Occupant, or otherwise entering the Condominium 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.
- 5.24. **“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.
- 5.25. **“Lien for Charges”** means a lien which is recorded to secure a Charge.
- 5.26. **“Limited Common Elements”** means those Common Elements, which are reserved for the use of a certain Unit or Units to the exclusion of all other Units, as specified in this Declaration. References in this Declaration to Common Elements include all Limited Common Elements, unless the context would prohibit or it is expressly provided otherwise. Whenever a portion of the Condominium Property naturally and exclusively services a particular Unit or group of Units, and where the area in question lies outside of the boundaries of the Unit, the delegation by this Declaration of Maintenance responsibility for the area by or at the expense of the benefiting Unit Owner(s) shall serve to define the area as a Limited Common Element.
- 5.27. **“Limited Common Expenses”** means those expenses affiliated with the Maintenance of a Limited Common Element, the costs of which are assessed only against the benefiting Owner(s), as authorized by the Act, or if so provided in this Declaration.
- 5.28. **“Maintenance” or “Maintain”** means, unless the context of a provision in the Condominium 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 Condominium Documents requires otherwise. Whenever a Unit Owner is obligated by the Condominium Documents or law to Maintain, repair, or replace portions of the Condominium 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.

- 5.29. "Master Association"** means Foxmoor Lakes Master Association, Inc., a not for profit Florida corporation, and its successors being the entity responsible for the administration of the Master Covenants.
- 5.30. "Member"** shall mean and refer to an Owner, as hereafter defined, who is a Member of the Association as provided herein.
- 5.31. "Occupant"** when used in connection with utive days, including staying overnight for at least one (1) night.a Unit, means a person who is physically present in a Unit for two (2) or more consec
- 5.32. "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.
- 5.33. "Officer"** means the executive Officers and assistant Officers (if any) appointed by the Board as provided in the Bylaws.
- 5.34. "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.
- 5.35. "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 Condominium 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 Condominium Act, the Articles, the Bylaws, or this Declaration.
- 5.36. "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.
- 5.37. "Unit"** means part of the Condominium 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 except where the context clearly requires otherwise.

**5.38. “Unit Owner” or “Owner”** means the record owner of a Condominium Parcel. Wherever a portion of the Condominium Documents, including the Rules and Regulations, proscribes, restricts, prohibits, 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.

**5.39. “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.

**5.40. “Voting Interests”** means the arrangement established in the Condominium 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. Upper and Lower 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.** The horizontal plane of the unfinished lower surface of the structural ceiling.

**6.1.2. Lower Boundaries.** The horizontal plane formed by the upper side of the interior unfinished floor surface of the floor of the Unit, extended to meet the vertical boundaries.

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

**6.3. Interior Divisions.** No part of the nonstructural interior walls shall be considered a boundary of the Unit.

**6.4. 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.

**6.5. Air Space.** Air Space surrounding a Unit, including that space located between the real property and the dwelling, and that air space being located within the boundaries of the Unit as set forth in the original Declaration, shall likewise be considered part of the Unit and not a Common Element, however, all air space not within the above description of the Unit, lying



within and over the boundaries of the Condominium Property extended vertically, ad infinitum, is hereby declared to be a Common Element.

**6.6. Exceptions.** In cases not specifically covered above and/or in any case of conflict or ambiguity, the Plats as previously recorded and as amended from time to time shall control in determining the boundaries of a Unit, except the provision of Section 6.1.4 above shall control unless specifically reflected on the Plat.

**7. EASEMENTS.** Each of the following easements is hereby created, all of which shall be nonexclusive easements and shall run with the land of the Condominium and, notwithstanding any of the other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonably interfere with their proper and intended uses and purposes, and each shall survive the termination of the Condominium.

**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. Utility, Other Services and Drainage.** The Association has the authority to convey and dedicate perpetual easements for the installation, construction, repair, Maintenance, and replacement of private and public utility lines and services, water, sewer, cable, telephone and other services, drainage and drainage ditches, pipes, catch basins and other facilities of all kinds over, under, and through the Condominium Property and the buildings or other structures. Utility easements may be granted to any public or private utilities as may be necessary or desirable to provide utility Services to the Condominium Property. All public and private utility companies rendering utility Services to this Condominium shall have a perpetual nonexclusive easement over and through all of the Common Areas of the Condominium Property for the purpose of construction, installation, Maintenance, repair, and replacement of the utilities servicing this Condominium and for the purpose of reading meters in connection therewith. In the event it is necessary to disturb the surface of the Property for such purposes, the roadways, grass, property, landscaping, and other improvements which are disturbed shall be restored by the utility company, at its own expense, as soon as practicable to their prior condition as nearly as possible. A Unit Owner shall do nothing within or outside of the Unit that interferes with or impairs, or may interfere with or impair, the provision of such utilities or other services or drainage facilities or the use of these easements. The Association or its designee shall have a right to access each Unit to inspect same, to Maintain, repair or replace the pipes, wires, ducts, vents, cables, conduit and other utility, service and drainage facilities, and Common Elements contained in the Unit or elsewhere in the Condominium Property, and to remove any Owner's improvements interfering with or impairing such facilities or easements herein reserved, at the Owner's expense; provided such right of access, except in the event of an emergency entry, shall be made on not less than twenty-four (24) hours notice. Drainage systems on the Condominium Property, if any, shall be maintained continuously in good condition by the Condominium Association and easements are granted hereby over all Units in favor of all Owners and the Association with respect thereto.

**7.3. Ingress and Egress.** Ingress and egress easements for pedestrian and bicycle traffic over and upon the sidewalks and paths existing from time to time upon the Common Elements, and ingress and egress easements for pedestrian and vehicular traffic over and upon the roads, parking areas, and other paved areas as existing from time to time upon the Common

Elements and intended for such purposes, same being in favor of the Unit Owners for their use and benefit and for the use and benefit of their mortgagees, Tenants, Guests and Invitees.

- 7.4. Master Association Easements.** Easements are reserved over and through the Common Elements on the Condominium Property for a bicycle and jogging path and on the roadway named Foxlake Drive as recorded in Instrument #201000089960 and as may be amended in the Public Records of Lee County Florida. Such path and road are for the use of all Owners, their Families, Guests, Tenants, and Invitees of Foxmoor Lakes Master Association.
- 7.5. 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.
- 7.6. 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.
- 7.7. 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.** Common Elements means all of the Condominium Property not included within the Units, and includes without limitation the following:
- The Land.
    - All portions of the buildings, recreational amenities, land, roof, main walls, slabs, stairways and staircases, walkways, trees and shrubs, utility lines, parking facilities, and equipment.
    - Other Improvements on the Land not included within the Units, including Limited Common Elements.
    - Easements through Units for conduits, ducts, plumbing, wiring, and other facilities for furnishing utility services to Units and the Common Elements.
    - An easement of support in every portion of the Condominium Property that contributes to the support of a Building or structure.
    - The property and installations required for furnishing utilities and other services to more than one Unit or to the Common Elements.
- 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.

- 7.9.1. Courts, Balconies, Terraces, and Patios.** The courts, balconies, terraces, terraces of lanais, and patios of Units are Limited Common Elements of Units having direct and exclusive access thereto.
- 7.9.2. Storage Areas.** Designated storage areas, if constructed, shall be Limited Common Elements.
- 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:
- The right of the Association to establish, modify, amend, and rescind reasonable Rules and Regulations regarding use of the Common Area;
  - The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
  - 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;
  - The right of the Association to open the Common Area for use by non-Members of the Association;
  - The right of the Association to restrict the use of Common Areas for special events, i.e. tennis matches, swimming meets.
  - The right of the Association to approve Guests before they can use the facilities.
- 7.11. Restraints Upon Separation and Partition.** The undivided share of ownership in the Common Elements and Common Surplus appurtenant to a Unit cannot be conveyed or encumbered separately from the Unit and passes with the title to the Unit, whether separately described or not. As long as the Condominium exists, the Common Elements cannot be partitioned. The shares in the funds and assets of the Association cannot be assigned, pledged or transferred except as an appurtenance to the Units.
- 8. VOTING RIGHTS; OWNERSHIP OF COMMON ELEMENTS AND COMMON SURPLUS.** The voting rights of the Owner of each Unit shall be one Voting Interest per Unit. The ownership of Common Elements and Common Surplus within the Association shall be a proportionate share for each Unit based on the total number of Condominium Units. Voting rights may be suspended pursuant to the terms of the Condominium 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 his Unit. He 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 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 in 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 Condominium Property, and restrictions upon the alteration and Improvement thereof, shall be as follows:

**9.1. By Association.** The Association is responsible for the protection, Maintenance, repair and replacement of all Common Elements and Association property (other than those Limited Common Elements which are required elsewhere herein to be maintained by the Unit Owner). The cost is a Common Expense and shall be Charged to all Unit Owners.

**9.2. Additions, Alterations, or Improvements by the Association.** Whenever in the judgment of the Board, the Common Elements, or any part thereof, shall require capital additions, alterations, or Improvements (as distinguished from repairs, replacements, and preventative maintenance) costing in excess of \$100,000.00 in the aggregate in any calendar year, the Association may proceed with such additions, alterations, or Improvements only if the making of such additions alterations or Improvements shall have been approved by (i) a

majority of Voting Interests present in person or by proxy at a meeting at which a quorum is attained. Any such additions alterations or Improvements to such Common Elements, or any part thereof, costing in the aggregate \$100,000.00 or less in a calendar year may be made by the Association without approval of the Unit Owners or Institutional First Mortgagee, the cost and expense of same shall constitute a part of the Common Expense and shall be assessed to the Unit Owners as Common Expenses.

**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.** All Maintenance, repairs and replacements of, in or to any Unit and Limited Common Elements appurtenant thereof, whether structural or nonstructural, ordinary or extraordinary, including, without limitation, Maintenance, repair, and replacement of screens, windows, balconies, patios, terraces, the interior side of the entrance doors and all other doors within or affording access to a Unit, hurricane shutters (including fixtures), the electrical (including wiring), plumbing (including fixtures and connections), heating and air-conditioning equipment, except that replacement of air conditioning equipment shall be subject to Florida Statute 718.111(11), fixtures and outlets, appliances, carpets and other floor coverings, all interior surfaces, and the entire interior of the Unit or the Limited Common Elements appurtenant to it shall be performed by the Owner of such Unit at the Unit Owners' sole cost and expense, except as otherwise expressly provided to the contrary herein.

**9.4.1. Limited Common Elements.** Where a Limited Common Element consists of a terrace (including, without limitation, terraces of lanais), patio, balcony, storage area, or roof area, the Unit Owner who has the exclusive right to use the area shall be responsible for the Maintenance, care, and preservation of the paim and surface of the interior parapet walls, including floor and ceiling, within said area, if any, and all fixed glass and sliding glass doors in portions of the entrance way to said area, if any; and the wiring, electrical outlet(s) and fixture(s) thereon, if any, and the replacement of light bulbs if any.

**9.4.2. 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 Condominium, so as to preserve a well-kept appearance throughout the Condominium. 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 Condominium 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 Condominium Property.

**9.5. Additions, Alterations, or Improvements by Unit Owners.** No Owner may make or permit the making of any modifications or alterations to his Unit, the Common Elements, or the

Limited Common Elements, or in any manner change the exterior appearance of any portion of the Condominium or any portion of the Unit visible from the exterior of the building, without first obtaining the written consent of the Board of Directors, which consent shall be denied if the Board determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the Condominium in part or whole. The Board may take into account uniformity of appearance, compatibility with architecture in the Association, the quality of the proposed alteration, objections of neighboring Residents, and such other criteria as the Board may reasonably adopt in reaching its decision. Any glass, screen, curtain, blind, shutter or awning which may be installed where visible from outside the unit is subject to regulation by the Board of Directors. No enclosures of balconies, terraces, patios, courts or roof areas shall be permitted without prior written approval of the Board.

In all cases in which the Board must approve construction in or alterations to a Unit or the Common Elements requested by an Owner, the Owner shall provide the Board with not less than thirty (30) days written notice of the Owner's intention, together with plans and specifications indicating the proposed construction. The Board shall indicate its approval or disapproval of the proposed construction in writing within thirty (30) days of receipt of the notice and all required plans. The Board reserves the right to consult with a licensed Florida architect or professional engineer and to pass such costs on to the Owner and to require that any plans and specifications be prepared by a licensed Florida architect or engineer. The Board may extend the time in which it must render its decision by an additional thirty (30) days in the event it determines a licensed Florida architect's or professional engineer's review is necessary. The Board may appoint an Architectural Control Committee to assume the foregoing responsibilities on behalf of the Board.

- 9.6. 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 Condominium 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 Condominium 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.
- 9.7. 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. The Association may require that each Owner and contractor, prior to commencing any construction, place a cash bond with the Association to pay for damage to property and to ensure that construction is timely completed in accordance with approved plans and specifications. All contractors and Owners are required to remove any construction debris daily.

**9.8. 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.

**9.9. 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 or negligence or by that of any member of his Family or his Guests, Tenants, or Invitees. Each Unit Owner has a duty to Maintain his Unit, any Limited Common Element appurtenant to the Unit, and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other Units, the Common Elements or the property of other Owners and Residents. If any condition, defect or malfunction, resulting from the Owner's failure to perform this duty causes damage to other Units, the Common Elements, Association Property or property within other Units, the Owner of the offending Unit shall be liable to the person or entity responsible for repairing the damaged property for all costs of repair or replacement not paid by insurance. If one or more of the Units involved is not occupied at the time the damage is discovered, the Association may enter the Unit without prior notice to the Owner and take reasonable action to mitigate damage or prevent its spread.

The 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.

**9.10. 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 Condominiums 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 Condominium 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.
- 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.
- 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; Other Fees and Deposits.** 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 Condominium 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 Condominium 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 Condominium 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.** Each Owner (by virtue of his acceptance of title to his Unit) and each other person having an interest in or lien upon, or making any use of, any portion of the

Condominium Property shall be bound by this provision and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed in this provision including regular Assessments and special Assessments. The Association may also levy special Charges against any individual Unit for any amounts other than Common Expenses which are properly chargeable against such Unit under this Declaration or the Bylaws. Assessments shall be levied, and payment enforced as provided in the Bylaws and as follows:

- 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 prorated share of the total Assessments to be made against all Owners and their Unit. 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 Condominium, 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, or for other reason placing financial stress upon the Association. The annual amount allocated to such operating reserves and collected therefore shall not exceed ten percent (10%) of the current annual Assessment levied against the Owners of all Lots. 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.
- 11.1.3. Special Assessments For Capital Improvements.** In addition to the annual Assessment authorized above, the Association may levy, in any Assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto and for other purposes as designated by the Association, provided that any such Assessment shall have the assent of a majority of the votes of Members who are present and voting in person or by proxy at a meeting duly called for this purpose.

**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 thereof not paid within ten (10) days from the date when they are due shall incur a late fee and bear interest in an amount as determined by the Board of Directors which, unless otherwise specified, shall be the maximum allowed by law. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such parcel, with interest, late fees and for reasonable attorneys' fees, as well as costs and expenses of collection incurred by the Association incident to the collection of the Assessment or enforcement of the lien. If prohibited by the Act, no lien may be filed by the Association against a Condominium Unit until forty-five (45) days after the date on which a notice of intent to file a lien has been delivered to the Owner, pursuant to the Act. The Association's lien is in effect until all sums secured by it have been fully paid or until barred 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.

**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 Condominium 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 Condominium 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.
- 11.9. 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.
- 11.10. 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 Condominium Documents, as the Board deems appropriate, without same constituting a waiver or election of remedies.

**11.11. 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 a 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 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, including the right to recover attorneys' fees, costs, and expenses of collection.

**11.12. 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. The Association or its authorized agent may impose a reasonable fee to a prospective purchaser, lienholder, or the Owner for its time in providing good faith responses to request for information other than that information required by law, provided that such fee shall not exceed \$150.00 plus the reasonable cost of photocopying and any attorney's fees incurred by the Association in connection with the Association's response.

**12. HOUSING FOR OLDER PERSONS.** It is hereby declared that the Association desires and intends to provide housing for older persons, as defined in the Fair Housing Amendments Act of 1988 (hereinafter referred to as the "Act") and the Federal Rules and Regulations (hereinafter referred to as the "Federal Regulations") as promulgated by the Department of Housing and Urban Development (hereinafter sometimes referred to as "HUD"). It is more specifically the desire and intention of this Association to meet the exemption for housing for older persons as is provided for in 24 CFR Part 100, Section 100.304 (hereinafter referred to as the "55 or Over Housing Exemption"). Section 100.304 implements Section 807(b)(2)(c) of the Act which exempts housing communities intended and operated for occupancy by at least one (1) person 55 years of age or over per Unit that satisfies certain criteria. In this endeavor, the following Occupancy restrictions and procedures shall govern. Further, in addition to these Amendments to the Declaration, the Association shall do whatever is required by the Act and Federal Regulations to publish its intention to comply with, and adhere to, policies and procedures which demonstrate an intent to provide housing for persons 55 year of age or over. The Act and Federal Regulations, as amended from time to time, are hereby incorporated by reference into this document. Reference to the Act and to the Federal Regulations in this document shall mean the Act and the Federal Regulations as they are amended from time to time. To the extent that any of these provisions relating to the Act appear to conflict with any language in the constituent documents governing the Association, said provisions shall be preempted by the Act, null and void and of no force or effect whatsoever.

**12.1. Minimum Age Restrictions.** Permanent occupancy of a Unit shall be restricted as follows provided that the restrictions contained in the remaining provisions of this Section are met:

**12.1.1.** No persons under the age of eighteen (18) years shall be permitted to permanently reside in the Units.

**12.1.2.** However, a person under the age of eighteen (18) years may be permitted to visit and temporarily reside in a Unit for a period of time not to exceed thirty (30) days in the aggregate in any calendar year. Only overnight visitation shall be considered in the computation. By way of example, if an under-aged person visits overnight, two (2) days of visitation shall be computed. If an under-aged person visits during the day only and does not stay overnight, no days of visitation shall be computed.

**12.2. Occupancy by Older Persons; Age 55.** Except for persons who are surviving spouses or cohabitants as provided herein, no Unit shall be Occupied or be permitted to be Occupied unless there is at least one (1) person Occupying the Unit who has attained the age of 55 years. This Occupancy requirement shall not preclude temporary Occupancy by Guests of the designated Occupant as described herein.

**12.3. Exceptions.**

**12.3.1. Surviving Spouse or Cohabitant.** Section 12.2 shall not be applicable in the case of the death of the designated Occupant whose surviving spouse or cohabitant is under 55 years of age, provided that the surviving spouse or cohabitant resided with the designated Occupant at the time of the designated Occupant's death. Under such circumstances, the surviving spouse or cohabitant shall be allowed to continue to Occupy the Unit irrespective of age so as to prevent disruption of the lives of surviving spouses and cohabitants under age 55, when the over 55 designated Occupant dies or otherwise leaves the Unit.

**12.3.2. Inheritance of Unit.** In the event a Unit Owner dies and the Unit is inherited by an individual under the age of 55, the individual shall be permitted to Occupy the Unit for a period not to exceed 90 days per calendar year. This individual may continue to maintain ownership of the Unit but may not permanently Occupy the Unit.

**12.4. Proof of Age.**

**12.4.1.** All persons Occupying Units after the date of June 15, 2016 shall deliver to the Association a completed Association form demonstrating proof of age and any other documentation required by the Association.

**12.4.2.** Any person not providing such documentation, when and as requested by the Board, shall be validly presumed by the Association and by a Court of law to be under the age of 55 years, even though the persons may actually be 55 years of age or over.

**12.5. Contract/Covenant.** Every Owner and Lessee shall be deemed to have a contract with the Association to ensure that the Occupancy requirement in Section 12.2 is met at all times. Even though this Occupancy requirement is a contract between the Association and the Owner or Lessee, as applicable, this Article shall be deemed to be a covenant running with the land. Furthermore, the Owner shall be responsible to ensure that his Lessee complies with this Occupancy requirement.

**12.6. Non-Occupancy Status.** Each Owner or Lessee, as applicable, shall notify the Association in writing of any periods of time during which the Unit becomes Unoccupied. As used in this Section, "Unoccupied" is defined to mean any intended absence of all permanent Occupants of the Unit, for a period in excess of six (6) months. It is understood that this is a necessary

requirement because the Federal Regulations require record keeping of Occupied and Unoccupied Units.

- 12.7. Additional Policies and Procedures.** The Board may establish additional policies and procedures for the purpose of ensuring that the required percentages of Occupancy by older persons are maintained at all times. The Board shall have the sole and absolute authority to deny Occupancy of Unit by any person whose Occupancy would violate this provision.
- 13. LEASING.** The purpose and object of this Section is to maintain a quiet, tranquil, non-transient and Single-Family oriented atmosphere with the Residents living in compatible coexistence with other financially responsible persons who are of like mind and acceptable both in character and comportment. This objective is considered to be important and justified because of the necessity of sharing facilities and because of the large personal investment of each Owner.
- 13.1. Regulation by Association.** The Board of Directors shall have the authority to approve all Leases and Rentals. The Board shall have the authority to promulgate or use a uniform Lease, license or Rental application and require such other information from the proposed Lessees as is appropriate under the circumstances. The Board shall have the right to delegate the screening of proposed Tenants to a committee, or a commercial Tenant screening concern. The Board may conduct or cause to be conducted background checks and credit checks on all proposed Occupants.
- 13.2. Fees and Deposits for the Lease of Units.** Whenever herein the Board's approval is required to allow the Lease of a Unit, the Association may charge the Owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law. No fee may be charged for approval of a renewal or extension of a Lease with the same Lessee. The Association may also require any security deposits that are authorized by the Condominium Act as amended from time to time which security deposit shall protect against damage to the Common Elements or Association property. Handling of the security deposit and claims against the security deposit shall be in accordance with the Act, as the same may be amended from time to time.
- 13.3. Notice.** Any Unit Owner intending to Lease or extend or renew a Lease that would result in a Tenant having possession of a Unit shall submit a copy of the proposed Lease, an application, and any other requested information and required fees at least thirty (30) days in advance of the commencement of the intended Lease.
- 13.4. Board Action.** After the required notice and all information including a thorough background check (SSN) 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 or disapproves within that time, its failure to act shall be deemed the equivalent of approval, and on demand the Board shall issue a written letter of approval to the Lessee.
- 13.5. Approval Process; Disapproval.** If the Association disapproves a proposed Lease or renewal or extension, the Owner shall receive a short statement indicating the reason for the disapproval, and the Lease shall not be made, renewed, or extended. Factors used by the Association to deny an application may include, but not be limited to ("Disapproval Criteria"):

- 13.5.1.** 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:
  - 13.5.1.1.** a capital, first-, or second-degree felony involving violence to persons or property, or a felony demonstrating dishonesty or moral turpitude;
  - 13.5.1.2.** a felony involving damage to or theft of property;
  - 13.5.1.3.** a felony involving sexual battery, sexual abuse, or lewd and lascivious behavior;
  - 13.5.1.4.** a first- or second-degree felony involving illegal drugs;
  - 13.5.1.5.** any drug offense involving the manufacture and/or distribution of illegal drugs.
- 13.5.2.** 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;
- 13.5.3.** 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 Condominium;
- 13.5.4.** The proposed Occupant makes any material misrepresentation during the application process, which shall justify retroactive disapproval of the application upon discovery of the misrepresentation;
- 13.5.5.** 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 Condominium as a Tenant, Resident, Occupant or Guest;
- 13.5.6.** 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;
- 13.5.7.** 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;
- 13.5.8.** The Owner has a history of Leasing his Unit without obtaining approval, or Leasing to troublesome Lessees or refusing to control or accept responsibility for the Occupancy of his Unit;
- 13.5.9.** 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;
- 13.5.10.** 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;

- 13.5.11.** All Assessments, fines and other Charges against the Unit have not been paid in full.
- 13.6. Unapproved Leases.** Any Lease of a Unit not approved pursuant to this Article 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 provided for in this Declaration.
- 13.7. Leasing Term and Frequency.** Only entire Units may be Leased. The minimum Rental period is two (2) months. The maximum permissible Lease term is four (4) months. All Leases shall be for a consecutive period of Occupancy. No Unit may be Leased more than one (1) time in any twelve (12) month period. Leases may be extended or renewed subject to prior approval of the Board. Owners shall not falsely represent that Occupants who pay or provide consideration to the Owner to use the Unit are non-paying Guests to avoid the minimum Rental periods.
- 13.8. Exceptions.** Upon written request of an Owner, the Board of Directors may approve one additional Lease of the Unit within the same calendar year, but only under unusual circumstances to avoid undue hardship and inequity.
- 13.9. Occupancy During Rental Term, Age 55.** No one but the Tenant and his Family within the first degree of relationship by blood, adoption or marriage may Occupy the Unit. All Leases shall comply with and be subject to the provisions of Section 12 concerning Occupancy restrictions under the Fair Housing Amendments Act of 1988 and the Housing for Older Person Act of 1995 as amended from time to time.
- 13.10. Collateral Assignment of Rents.** In the event a Unit 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 Unit Owner's Tenant. Upon demand by the Association the Tenant shall pay said Rent to the Association. Such Rental payments shall be applied in accordance with the Act until all past due amounts are paid in full. In the event such Tenant fails to remit said Rents directly to the Association within seven (7) days (but no later than the day the next Rental payment is due) from the day the Association notified such Tenant in writing that the Rents must be remitted directly to the Association, the Association shall have the right to terminate the Lease and evict the Tenant. For the purpose of such eviction, the Association shall be deemed to be an agent of the landlord. The rights contained herein are in addition to any rights granted by law.
- 13.11. Tenant Agreement to Covenants.** All Leases must and shall be deemed to contain the agreement of the Tenants to abide by all of the Covenants of the Condominium Documents and must and shall be deemed to provide that a violation of the Lease or the Condominium Documents by the Tenant or any of his Guests is a breach and event of default of the Lease and grounds for damages, termination and eviction and that the Tenant and the Unit Owner agree that the Association may proceed directly against such Tenant(s) and that the Tenant(s) shall be responsible for the Association's costs and expenses, including reasonable attorneys' fees, at all trial and appellate levels. If such costs and fees are not immediately paid by the

Tenant(s), the Unit Owner shall pay them and such funds shall be secured as a Charge. Each Unit Owner by acceptance of the deed to a Unit and by the terms of this Declaration appoints the Association as the Unit Owner's agent to bring actions in the Unit Owner's name and at the Unit Owner's expense including injunction, damages, termination and eviction. The Unit Owner agrees to provide, or cause his rental agent to provide, to the Tenant(s) a copy of the pertinent provisions of the Rules and Regulations at or before the commencement of the Lease term.

**13.12. Suspension of Leasing Privilege.** The ability of a Unit Owner to Lease his Unit to others is a privilege, not a right. The privilege may be suspended or revoked by the Board if abused by the Owner (or the Owner's agents, including rental agents). Causes for suspension may include, but are not limited to, (i) permitting persons Occupying such Unit for consideration for periods of less than the minimum permitted Lease term or of more than the maximum permitted Lease term, and (ii) permitting the total number of persons Occupying such Unit on an overnight basis or resident in such Unit to exceed the maximum permitted Occupancy and residency restrictions permitted by this Declaration and the Rules and Regulations. Leasing privileges may be suspended by the Board for up to one year, and may only be suspended after the Owner has been provided with notice of a hearing in the same manner applicable to hearings for the levy of fines or the suspension of Common Area use rights, as prescribed by law.

**13.13. 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.

**13.14. Use of Common Elements and Common Areas.** To prevent overtaxing the facilities, an Owner whose Unit is Leased may not use the recreation or parking facilities of the Condominium during the Lease term.

**14. 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 Condominiums exist 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.

**14.1. Occupancy by Older Persons; Age 55.** All transfers shall comply with and be subject to the provisions of Section 12 concerning Occupancy restrictions under the Fair Housing Amendments Act of 1988 and the Housing for Older Person Act of 1995 as amended from time to time.

**14.2. 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.

**14.3. Transfers Subject to Approval.**

**14.3.1. 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.

**14.3.2. 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 his title by gift, his ownership of his Unit shall be subject to the prior approval of the Board.

**14.3.3. Devise or Inheritance.** If any Unit 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 devise or heir who was the prior Owner's lawful spouse at the time of death, or was related to the Owner by blood or adoption within the first degree.

**14.3.4. 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.

**14.4. 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:

**14.4.1. 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.

**14.4.2. 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.

**14.4.3. 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.

**14.4.4. 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.

**14.5. 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:

**14.5.1. 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 facially qualify for membership in the Association, or if the proposed transaction will result in a violation of the Condominium 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.

**14.5.2. Disapproval Without Good Cause.** If the proposed transaction has been disapproved without good cause, then within forty-five (45) days after receipt of such notice and information, the Association shall deliver or mail by certified mail to the Unit Owner an agreement to purchase the Unit concerned by a purchaser approved by the Board, or the Association itself, who will purchase and to whom the Unit Owner must sell the Unit upon the following terms:

**14.5.2.1.** At the option of the Association to be stated in the agreement, the price to be paid shall be that stated in the disapproved contract to sell or shall be the fair market value determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers, one (1) of whom shall be appointed by the Unit Owner and the other of whom shall be appointed by the Association, who shall base their determination upon an average of their appraisals of the Unit; and judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be shared on

such basis as the parties shall agree upon or, in the absence of such agreement, shall be shared equally by the parties.

**14.5.2.2.** The purchase price shall be paid in cash. The sale shall be closed within thirty (30) days after the delivery or mailing of the agreement to purchase, or within ten (10) days after the determination of the sale price if such is by arbitration, whichever is the later. If the Association shall fail to itself purchase the Unit, or provide a purchaser, or if a purchaser furnished by the Association or the Association shall default in his agreement to purchase, then notwithstanding the disapproval, the proposed transaction shall be deemed to have been approved, and the Association shall promptly furnish a Certificate of Approval. The foregoing is without prejudice to the rights, if any, of the Unit Owner against a purchaser furnished by the Association or the Association itself, as a result of such default.

**14.6. 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.

**15. OCCUPANCY AND USE RESTRICTIONS.** In order to provide for the congenial Occupancy of the Condominium Property and for the protection of the values of the Units, the use of the Condominium Units and the Condominium Property shall be restricted to and shall be in accordance with the following provisions:

**15.1. Occupancy of Units; Single Family Residence.** A Condominium Unit shall be used only as a Single-Family residence. As used in the Condominium Documents, "Single Family" means one natural person, a group of two or more natural persons who customarily reside together as a Single-Family housekeeping Unit, each of whom is related to each of the others by blood, marriage (or domestic partnership) or adoption, or not more than two persons not so related, who customarily reside together as a single housekeeping Unit. For purposes of these Condominium Documents, reside means to sleep in the Unit for more than thirty (30) nights during a calendar year. No Unit may be divided or subdivided into a smaller Unit nor any portion sold or otherwise transferred. No person may reside in a Unit as a Unit Owner, Resident, or Family member or for any reason Occupy the Unit on an overnight basis for more than thirty (30) days in a calendar year unless said person's Occupancy has been specifically approved by the Association, through the Board of Directors.

**15.2. Residential and Business Uses.** No business, commercial activity or profession may be conducted from any Unit, nor may the name of the condominium or the address of any be publicly advertised as the location of any business. This restriction shall not be construed to prohibit any Owner from maintaining a personal or professional library in his or her home, from keeping his or her personal, business or professional records in his or her home, from handling his or her personal, business or professional telephone calls or written correspondence in and from his or her home or conducting a "no impact" home based business in and from his or her home. Such uses are expressly declared customarily incident to residential use. Examples of businesses which are prohibited and are considered "impact" businesses are businesses or commercial activity or ventures that create customer traffic to and from the home, create noise audible from outside the home, or generate fumes or odors noticeable outside the home, including but not limited to, a home day care, beauty salon/barber, and animal breeding.

The Condominium does not permit transient accommodations. Any such efforts to use the Unit in a transient fashion and inconsistent with this Declaration of Condominium will be denied. Offering Units through such programs as VRBO, HomeAway and Airbnb, and similar companies are not permitted.

- 15.3. Occupancy.** In no event shall Occupancy (except for temporary Occupancy by visiting Guests) exceed four (4) persons for a two (2) bedroom Unit. Occupancy shall be further controlled by Section 12 concerning Occupancy restrictions under the Fair Housing Amendments Act of 1988 and the Housing for Older Person Act of 1995 as amended from time to time. The Board shall have the power to authorize Occupancy of a Unit by persons in addition to those set forth herein.
- 15.4. Animals.** A total of two (2) animals of a normal domesticated household type (such as cats or dogs) **weighing no more than twenty (20) pounds each are permitted.** No exotic animals are permitted. Certain breeds or any mix of those breeds considered vicious or dangerous are not allowed on Association Property at any time. The Board of Directors makes the final determination on all banned breeds. No reptiles, monkeys, rodents, amphibians, poultry, swine, rabbits, ferrets, or livestock may be kept on the Properties. 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. The ability to keep animals is a privilege, not a right, and the Board of Directors is empowered to Fine an Owner and order and enforce the removal of any animal in violation of this section or that becomes a source of unreasonable annoyance or a danger to the health, safety, and welfare of other Residents.
- 15.4.1.** 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.
- 15.4.2.** Excrement made by animals shall be removed by Owners or handlers immediately.
- 15.4.3.** Animals that are vicious, noisy, or otherwise unpleasant will not be permitted. In the event that an animal has, in the sole opinion of the Board of directors, 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.
- 15.4.4.** Owners may not leave animals unattended in backyards, screened porches, or where their noise may bother others.
- 15.4.5.** 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.
- 15.4.6.** The Board of Directors 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.

- 15.5. Acts of Animals.** The Association shall have no liability for the actions of or damage caused by any animals within the Properties including dogs, bear, alligators, cougar, wild boar, deer, or 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.
- 15.6. Nuisance.** The Condominium 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 Condominium Property, nor which becomes a source of annoyance to the Condominium Residents, which will increase insurance rates, or which will negatively affect the value of Units. All parts of the Condominium 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.
- 15.7. Lawful Use.** All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies which require Maintenance, modification or repair upon Condominium property shall be the same as the responsibility for the repair and Maintenance of the property as expressed earlier in this Declaration.
- 15.8. Parking.** Owners of a Unit will have exclusive use of one (1) assigned parking space. A maximum of two (2) permanent parking decals will be issued to each Owner. Guest parking spaces will be provided in the Common Elements. The Board of Directors shall have the authority to establish parking policies. Said restrictions shall become enforceable upon providing each Owner with notice thereof either through written notice to the Owners or the posting of signs.
- 15.9. Exterior Alterations.** No Unit Owner shall cause or allow Improvements or changes of any kind to any Limited Common Elements or Common Elements, including but not limited to, painting or other decoration of any nature, installing any electrical wiring, television antenna, machinery, or air conditioning units or in any manner changing the appearance of any portion of the Building without prior written consent of the Board. No Owner of a Unit shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors or windows of any buildings (including awnings, signs, storm shutters, screens, furniture, fixtures and equipment), or to structures or any parking areas without the prior written consent of the Board.
- 15.10. Landscaping.** No landscaping shall be added, augmented, replaced, cut down, destroyed, or removed without the prior written approval of the Board. No artificial grass, plants, or other artificial vegetation shall be placed or maintained upon any Property outside of the Unit unless approved by the Board.
- 15.11. 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.

- 15.12. Additional Restrictions.** Additional use, Occupancy, Maintenance, transfer and other restrictions are contained in the Rules and Regulations, which may be amended from time to time by the Board. Amendments to the Rules and Regulations may, but need not be, recorded in the Public Records. Additional use, transfer and other restrictions are also contained elsewhere in the Condominium Documents.

**16. ADDITIONAL RIGHTS OF INSTITUTIONAL MORTGAGEES.**

- 16.1. 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 Condominium Act, as it may be amended from time to time. Any unpaid share of Common Expenses for which such acquirer is exempt from liability becomes a Common Expense collectible from all 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.

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

- 16.2.1.** Examine the Association's books; and
- 16.2.2.** Receive the notice of Association meetings and attend such meetings; and
- 16.2.3.** 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
- 16.2.4.** Receive notice of any substantial damage or loss to any portion of the Condominium Property; and
- 16.2.5.** Receive notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- 16.2.6.** Receive notice of any proposed action which would require the consent of a specified percentage of Institutional Mortgagees; and
- 16.2.7.** 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
- 16.2.8.** Receive notice of any proposed termination of the Condominium, in whole or in part.



- 16. INSURANCE.** In order to adequately protect the Owners, the Association, the Common Elements and Association Property, insurance shall be carried and kept in force at all times in accordance with the following provisions.
- 16.1. Authority to Purchase Insurance.** All insurance policies shall be purchased by the Association for the benefit of the Association and the Unit Owners and their mortgagees as their respective interests may appear.
- 16.2. Duty and Authority to Obtain.** The Board shall use its best efforts to obtain and keep in force the insurance coverage required by law and under the Condominium Documents, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. To the extent permitted by law, the Association may self-insure.
- 16.3. Coverage.** The Association shall maintain adequate property insurance covering all the Common Elements and Association Property. The amounts of coverage shall be determined annually by the Board of Directors and the premium on any policy purchased by the Association shall be paid as a Common Expense. The insurance carried by the Association shall afford at least the following provisions:
- 16.3.1. 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:
- 16.3.1.1.** Loss or damage by fire and other hazards covered in a standard extended coverage endorsement; and
- 16.3.1.2.** 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.
- 16.3.2. Flood Insurance.** If required by the Institutional First Mortgagee or if the Association elects.
- 16.3.3. Liability Insurance.** The Association shall obtain and maintain public liability insurance covering all of the Common Elements and Association Property and insuring the Association and the Unit Owners as their interest may appear in such amount as the Board 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.

- 16.3.4. Fidelity Insurance.** The Association shall obtain and maintain insurance or fidelity bonding of all natural 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.
- 16.3.5. Worker's Compensation.** Such worker's compensation coverage as may be required by law, or deemed advisable by the Board.
- 16.3.6. Other Insurance.** Such other insurance as the Board may from time to time deem to be necessary, including, but not limited to, Errors and Omissions Officers and Directors Liability insurance coverage and insurance for the benefit of its employees.
- 16.3.7. 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 Condominium 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 Trustee.** All Casualty insurance policies purchased by the Association shall provide that all proceeds in excess of one hundred thousand dollars (\$100,000.00) covering Casualty losses shall be paid to any national or state bank whose deposits are insured by the F.D.I.C. or by the federal or state government, trust company, or other independent financial institution in the vicinity of the Condominium with trust powers as may be designated by the Association, as Trustee, which Trustee is herein referred to as the "Insurance Trustee." The Insurance Trustee shall not be liable for the payment of premiums or for the renewal or sufficiency of the policies or for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated herein and for the benefit of the Unit Owners and their respective mortgagees in the following shares, which shares need not be set forth in the records of the Insurance Trustee. Furthermore, unless any Institutional Lender otherwise requires by written notice to the Association, no Insurance Trustee shall be required if the insurance company providing Casualty insurance agrees to disburse the proceeds from Casualty losses directly toward the payment of the expenses of making any necessary repairs

and restorations, and in accordance with the provisions of this Declaration, and in that event all references in this Declaration to an Insurance Trustee shall refer to the insurance company where the context requires.

- 16.8. Insurance Trustee; Share of Proceeds.** All insurance policies obtained by the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their interests may appear, and may provide that all proceeds covering property losses shall be paid to the Insurance Trustee, which shall be designated by the Board of Directors and which shall be any bank, or trust company in Florida with trust powers. The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust, for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees in the following share, but which shares need not be set forth on the records of the Insurance Trustee:
- 16.8.1. Common Elements.** Proceeds on account of damage to the Common Elements shall be held in undivided shares for each Unit Owner, such shares being the same as the undivided share in the Common Elements appurtenant to each Unit.
- 16.8.2. Units.** Proceeds on account of damage to Units shall be held in the following undivided shares:
- 16.8.2.1.** When the Building is to be restored, the proceeds shall be held for the Owner's damaged Units in proportion to the cost of repairing the damage suffered by each Owner which cost shall be determined by the Association.
- 16.8.2.2.** When the Building is not to be restored, the proceeds shall be held in an undivided share for each Owner, such share being the same as the undivided share in the Common Elements appurtenant to his Unit.
- 16.8.3. Mortgagees.** No mortgage 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 the right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions hereof made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration.
- 16.9. Distribution of Proceeds.** Proceeds of insurance policies received by the Insurance Trustee or other named insured shall be distributed to or for the benefit of the beneficial Owners in the following manner:
- 16.9.1. Expense of the Trust.** All expenses of the Insurance Trustee shall be first paid or provision made therefor.
- 16.9.2. Reconstruction or Repair.** If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Owners, remittances to Unit Owners and their mortgages being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.
- 16.9.3. 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 first to all Institutional First Mortgagees in an amount sufficient to pay off their mortgages, and the balance, if any, to the beneficial Owners. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

**16.9.4. Certificate.** In making distribution to Unit Owners and their mortgagees, the Insurance Trustee or other named insured may rely upon a Certificate or the Association made by its President and Secretary as to the names of the Unit Owners and their mortgagees and their respective shares of the distribution.

**16.10. Insurance Trustee.** All references in this Declaration to the Insurance Trustee assume that the Association will elect to engage one. Nothing herein shall, however, require the Association to so engage an Insurance Trustee. Such engagement shall be solely optional on the part of the Association. In the event that the Association elects not to engage an Insurance Trustee, the Association will perform directly all obligations imposed upon the Trustee by this Declaration.

**16.11. Unit Owner's Personal Coverage.** The insurance purchased by the Association shall not cover claims against an Owner due to accidents occurring within his Unit nor Casualty or theft loss to the contents of Unit or flood damage to Units. It shall be the obligation of the individual Owner to purchase and pay for insurance as to all such and other risks.

**16.11.1. Property, Hazard and Liability Insurance.** Each Unit shall carry property, hazard and liability insurance including endorsements for leakage, seepage and wind-driven rain, additions and alterations, and loss assessment protection. 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 Condominium 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. RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE.**

**17.1. Damage to Condominium Property.** If any part of the Condominium Property shall be damaged by casualty, the determination of whether or not to reconstruct or repair the same shall be made as follows:

**17.1.1. Damage to Units.** If the damage is only to these parts of one or more Units for which the responsibility of Maintenance and repair is that of the respective Owner,

then the Owner shall be responsible for reconstruction and repair after Casualty. In all other instances, the responsibility or reconstruction and repair after Casualty shall be that of the Association.

- 17.1.2. Common Elements.** If the damaged improvement is any of the Common Elements, the damaged Common Elements shall be reconstructed or repaired, unless the Condominiums are to be terminated as provided elsewhere herein.
- 17.1.3. Partial Destruction.** Partial destruction of Condominium Property (which shall be deemed to mean destruction which renders fewer than fifty percent (50%) of the Units uninhabitable) shall be reconstructed or repaired unless this Declaration is terminated at a meeting of the Members of the Association which shall be called prior to commencement of such reconstruction or repair.
- 17.1.4. Total Destruction** of Condominium Property (which shall be deemed to mean destruction which renders fifty percent (50%) or more of the Units uninhabitable) shall not be reconstructed or repaired unless approved at a meeting which shall be called within ninety (90) days after the occurrence of the casualty, or if by such date the insurance loss has not been finally adjusted, then within thirty (30) days thereafter, eighty percent (80%) of the Unit Owners in this Condominium must vote in favor of such reconstruction or repair.
- 17.1.5. Plans and Specifications.** Any repairs or reconstruction must be substantially in accordance with the plans and specifications for the original Buildings, or according to different plans and specifications approved by the Board, by the Owners of at least eighty percent (80%) of the Units and by the Primary Institutional Mortgagee, if any. Such approvals may not be unreasonably withheld. However, no change in plans and specifications shall materially reduce the interior floor space of any Unit without the consent of the Unit Owner and his institutional mortgagee, if any.
- 17.1.6. Encroachments.** Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Unit or structures were originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Units or structures exist.
- 17.1.7. Estimate of Costs.** Immediately after a casualty causing damage to property for which the Association has the responsibility of reconstructing and repairing, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board desires.
- 17.1.8. Assessments.** If the net proceeds of insurance plus available reserves are insufficient to pay for the cost of reconstruction and repair of the Common Elements, then unless the Owners have voted not to repair, restore or rebuild the damage caused by the loss as provided herein, the Association shall promptly, upon determination of the deficiency, levy a special Assessment against all Owners. Such special Assessments need not be approved by the Owners. The special Assessment shall be added to the

proceeds of insurance available for reconstruction and repair of the Common Elements.

- 17.2. Construction Funds.** The funds for payment of the costs of reconstruction and repair after Casualty, which shall consist of proceeds of insurance held by the Insurance Trustee or other named insured and funds collected by the Association from Assessments against Owners, shall be disbursed in the following manner:
- 17.2.1. Association.** If the total Assessments made by the Association in order to provide funds for payment of costs of reconstruction and repair which is the responsibility of the Association is more than 100,000.00 then the sums paid upon such Assessments shall be deposited by the Association with the Insurance Trustee. In all other cases, the Association shall hold the sums paid upon such Assessments and disburse the same in payment of the cost of reconstruction and repair.
- 17.2.2. Insurance Trustee.** The proceeds of insurance collected on account of a Casualty, and the sums deposited with the Insurance Trustee by the Association from collections of Assessments against Owners on account of such Casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:
- 17.2.2.1. Association - Lesser Damage.** If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than \$100,000.00, then the construction funds shall be disbursed in payment of such costs upon the order of the Board, provided, however, that upon request to the Insurance Trustee by an Institutional First Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided below for the reconstruction and repair of major damage.
- 17.2.2.2. Association - Major Damage.** If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than 100,000.00, then the construction funds shall be disbursed in payment of such costs in the manner required by the Board and upon approval of an architect qualified to practice in Florida and employed by the Association to supervise the work.
- 17.2.2.3. Unit Owner.** If there is a balance of insurance proceeds after payment of costs of reconstruction and repair that is the responsibility of the Association, this balance may be used by the Association to effect repairs to Units or may be distributed to Owners of damaged Units who have the responsibility for reconstruction and repair of their Units. The distribution shall be in the proportion that the estimated costs of reconstruction and repair of such damage in each damaged Unit bears to the total of such estimated costs in all damaged Units as determined by the Board, provided, however, that no Owner shall be paid an amount in excess of the estimated costs for his Unit. All proceeds must be used to effect repairs to Units. Any balance remaining after such repairs have been affected shall be distributed to the affected Owners and their mortgagees jointly.
- 17.2.2.4. Surplus.** It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there

is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial Owners of the fund in the manner elsewhere stated; except, however, that the part of a distribution to a beneficial Owner which is not in excess of Assessments paid by such Owner into the construction fund shall not be made payable to any mortgagee.

**17.2.2.5. Certificate.** Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the Assessments paid by Owners, nor to determine the payees nor the amounts to be paid. Instead, the Insurance Trustee may rely upon a certificate of the Association, made by its President and Secretary as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the names of the payees and the amounts to be paid.

**17.3. Insurance Adjustments.** Each Owner shall be deemed to have delegated to the Board his right to adjust with insurance companies all losses under policies purchased by the Association, except in any case where the damage is restricted to one Unit. Any deductible where loss or damage is restricted to a particular Unit shall be the responsibility of the Unit Owner.

**17.4. Damage Caused By Wear and Tear of the Condominium Property or Uninsurable Loss.** Damage to the Condominium Property that is not caused by a Casualty or covered cause of loss under the Association's applicable insurance policy, shall not be subject to this Article.

## **18. CONDEMNATION.**

**18.1. Deposit of Awards with Insurance Trustee.** 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 Insurance Trustee; 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.

**18.2. 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.

**18.3. Disbursement of Funds.** If the Condominium is terminated, the proceeds of all awards and other payments will be deemed Association property and shall be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a Casualty. If the Condominium is not terminated, but the size of the Condominium will be

reduced, the Owners of Units to be diminished or eliminated, if any, will first be made whole, and any property damaged by the taking will be made usable in the manner provided below. Proceeds of awards and special Assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursements of funds by the Insurance Trustee after a casualty.

- 18.4. 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:
- 18.4.1. 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.
  - 18.4.2. 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).
  - 18.4.3. 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 equitably distribute the ownership of the Common Elements among the changed number of Units.
  - 18.4.4. 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 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.
- 18.5. 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:
- 18.5.1. 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.
  - 18.5.2. 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.
  - 18.5.3. 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 follows:

Add the total percentage of all Units of continuing Owners prior to the adjustment (the Percentage Balance).

Divide the preadjusted percentage of each Unit of a continuing Owner by the Percentage Balance.

The result of such division for each Unit shall be the adjusted percentage for each Unit.

**18.5.4. 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.

**18.5.5. 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.

**18.6. 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.

**18.7. 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 only by a majority of all Directors.

**19. TERMINATION OF CONDOMINIUM.** 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 at least eight percent (80%) of the total Voting Interest in the

Association and of at least eight percent (80%) of the Institutional Mortgagees. Such approvals shall be irrevocable until the expiration of the option, and if the option is exercised, the approvals shall be irrevocable.

- 19.1. 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.
- 19.2. 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.
- 19.3. 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.
- 19.4. 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.
- 19.5. Amendment.** This section cannot be amended without the consent of all Institutional First Mortgagees of Units.
- 20. 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:

  - 20.1. 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.
  - 20.2. Failure to Maintain.** In the event an Owner fails to Maintain his 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.

- 20.3. 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.
- 20.4. 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 Condominium Act or the Condominium 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.
- 20.5. 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 Condominium Documents shall not constitute a waiver of the right of the Association or Member to enforce such right, provision, covenant or condition in the future. A provision of the Condominium Act may not be waived by 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.
- 20.6. No Election of Remedies.** All rights, remedies and privileges granted to the Association or Owners under any terms, provisions, covenants, or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising such other additional rights, remedies, or privileges as may be granted by the Condominium Documents, or at law or in equity.
- 20.7. 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 his immediate Family permanently residing with him 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 his immediate Family residing with him 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.

21. **METHOD OF AMENDMENT OF DECLARATION.** Except as elsewhere provided otherwise, this Declaration may be amended in the following manner:
  - 21.1. **Proposal of Amendments.** An amendment may be proposed by the President of the Association, a majority of Directors, or by one-third (1/3) of the entire Voting Interests.
  - 21.2. **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.
  - 21.3. **Vote Required.** Except as otherwise provided by law, or by specific provision of the Condominium Documents, this Declaration may be amended if the proposed amendment is approved 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 either:
    - 21.3.1. Not fewer than a majority of the Voting Interests and not fewer than two-thirds (2/3) of the Board of Directors; or
    - 21.3.2. Not fewer than eighty percent (80%) of the Voting Interests present in person or by proxy at any annual or special meeting called for the purpose; or
    - 21.3.3. Not fewer than one hundred percent (100%) of the Board of Directors.
  - 21.4. **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.
  - 21.5. **Automatic Amendment.** Whenever the Condominium 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 Condominium Act, or such other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.
  - 21.6. **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.

## 22. MASTER ASSOCIATION.

- 22.1. Foxmoor Lakes Projects.** Each Unit Owner shall also be a Member of the Foxmoor Lakes Master Association, Inc., a non-profit corporation, which has been created to operate and maintain the common areas and recreational facilities of the Foxmoor Lakes Project, excluding the Common Facilities of Sawmill Villas. The recreational facilities and common areas owned and operated by Foxmoor Lakes Master Association, Inc., consists of lakes, three (3) swimming pools, recreational building, two (2) tennis courts, pickleball courts, bocce ball courts, and bicycle and jogging path(s). Each Unit is required to pay their share of the cost and expenses of maintenance, management, upkeep, replacement, and assessments pursuant to the Foxmoor Lakes Master Association, Inc. Declaration of Covenants and Restrictions recorded in OR Book 1461, Page 1395 of the Public Records of Lee County, Florida as amended from time to time.
- 22.2. Foxmoor Lakes Projects Roads.** Unit Owners shall have the right to use and responsibility to maintain certain roads pursuant to the Agreement For Operation and Maintenance of Certain Commonly Used streets recorded July 16, 1997 in OR Book 2845, Pages 2460 of the Public Records of Lee County, Florida as amended from time to time.

## 23. MISCELLANEOUS PROVISIONS.

- 23.1. Applicable Statutes.** The validity, application and construction of this Declaration and its exhibits shall be governed by the laws of Florida, particularly the Condominium Act, as amended from time to time.
- 23.2. Savings Clause.** If any provision of the Condominium Documents hereto, as the same now exist or as may be later amended or any portion thereof, shall be held invalid by any Court, or other governmental agency with proper authority to so hold, the validity of the remainder of said Condominium Documents shall remain in full force and effect.
- 23.3. 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.
- 23.4. Signature of President and Secretary.** Wherever the signature of the President of the Association is required hereunder, the signature of a Vice President may be substituted therefor, and whenever the signature of the Secretary of the Association is required hereunder, the signature of an Assistant Secretary may be substituted therefor, provided the same person may not execute any single instrument on behalf of the Association in two separate capacities.
- 23.5. Conflicts.** If there is a conflict between any provision of this Declaration and the Condominium Act, the Condominium Act shall control. In the event of any conflict, the Condominium 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.

- 23.6. **Captions and Headings.** The headings and captions used in the Condominium Documents are solely for the sake of convenience and shall not be considered a limitation of any nature in interpreting the Condominium Documents.
- 23.7. **Waiver.** The failure of the Association or an Owner to enforce any right, provision, covenant or condition which may be granted by the Condominium Documents shall not constitute a waiver of the right of the Association or such Owner to enforce such right, provision, covenant or condition in the future.
- 23.8. **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.
- 23.9. **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.

WITNESS my signature hereto this \_\_\_\_\_day of \_\_\_\_\_, 2022,

**SAWMILL VILLAS CONDOMINIUM ASSOCIATION**

By: \_\_\_\_\_

\_\_\_\_\_  
(President)

\_\_\_\_\_  
Witness Name: \_\_\_\_\_

\_\_\_\_\_  
Witness Name: \_\_\_\_\_

STATE OF FLORIDA )  
 ) SS:  
COUNTY OF LEE )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2022 by \_\_\_\_\_, President of SAWMILL VILLAS CONDOMINIUM ASSOCIATION, INC., a Florida corporation, on behalf of the corporation. He/she is personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Printed Name of Notary Public

Seal:

\_\_\_\_\_  
(Signature of Notary Public)

Attest: \_\_\_\_\_

\_\_\_\_\_  
(Vice President or Secretary)

\_\_\_\_\_  
Witness Name: \_\_\_\_\_

\_\_\_\_\_  
Witness Name: \_\_\_\_\_

**BYLAWS OF SAWMILL VILLAS CONDOMINIUM ASSOCIATION, INC.**

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**SECOND AMENDED AND RESTATED BYLAWS OF SAWMILL VILLAS  
CONDOMINIUM ASSOCIATION, INC.**

1. **GENERAL.** These are the Second Amended and Restated Bylaws of Sawmill Villas Condominium 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 3436 Marinatown Lane Ste 3, North Fort Myers, Florida 33903, or such other location 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.
  - 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.
  - 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 Members' meeting shall be held on the date, at the place, and at the time, determined by the Board from time to time, provided that there shall be an annual meeting every calendar year and no later than twelve (12) months after the last preceding annual meeting. The purpose of the meeting shall be to elect Directors and to transact any other business authorized to be transacted by the Members, or stated in the notice of meeting sent to all Owners in advance thereof.
- 3.2. 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.
- 3.2.1. 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.
- 3.2.2. Second Notice; Candidate Information Sheets.** Not less than fourteen (14) 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 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.
- 3.2.3.** 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.
- 3.2.4.** 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.
- 3.2.5.** 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.
- 3.2.6. 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.

- 3.3. 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 a majority 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.
- 3.3.1. 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.
- 3.4. Notice of Members' Meeting.** Written notice of a meeting of Members stating the time and place and the objects 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 Condominium 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) nor more than sixty (60) 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.
- 3.5. Quorum.** A quorum at Members' meetings shall consist of persons entitled to cast thirty percent (30%) 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 Condominium Documents require a larger percentage, in which case the percentage required in the Act or the Condominium 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.
- 3.5.1. Suspended Voting Rights.** Except when required otherwise by law, those Members whose voting rights are suspended pursuant to the terms of the Condominium Documents or Florida law shall be subtracted from the required number of votes in any calculation for purposes of determining whether a quorum is present during the period of suspension. Such Voting Interests shall likewise be subtracted from the required number of votes when calculating any required vote as set forth in the Condominium Documents or the Act.
- 3.6. 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 Condominium Documents and Florida law.
- 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. If a Unit is owned jointly by a married couple, they may, without being required to do so, designate a voting Member in the manner provided above. In the event a married couple do not designate a voting Member, the following provisions shall apply:

- 3.7.1. If both are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at the meeting, and their vote shall not be considered in determining whether a quorum is present on that subject at the meeting.
- 3.7.2. If only one is present at a meeting, the person present shall be counted for purposes of a quorum and may cast the Unit vote, just as though he or she owned the Unit individually, and without establishing the concurrence of the absent person.
- 3.7.3. If both are present at the meeting and concur, either one may cast the Unit vote.
- 3.8. **Proxies.** Votes may be cast in person or by proxy. A proxy may be made by any person entitled to vote and shall be valid only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy is revocable at any time at the pleasure of the Owner executing it. A proxy must be filed in writing and signed by the voting Member generating the proxy and filed with the Secretary of the Association before the appointed time of the meeting, or, at the discretion of the Presiding Officer of such meeting, before the time to which the meeting is adjourned. Holders of proxies need not be Owners. 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 Condominium 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. **Adjourned Meetings.** 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. If the date, time, and place of its continuance are announced at the meeting being adjourned, then it shall not be necessary to give further notice of the meeting. 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.** An agenda may be put forth by the President of the Board specifying the topics for discussion and vote, and providing an order of business to be conducted.

**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 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, 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 three (3) or five (5) Directors. Directors shall serve a term of two (2) years. 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.

**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.

- 4.3. **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.
- 4.4. **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.
- 4.5. **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.
- 4.6. **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.
- 4.7. **Regular Meetings.** 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.
- 4.8. **Special Meetings.** Special meetings of the Directors may be called by the President at any time and must be called at the written request of a majority 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 48 hours prior to the meeting.
- 4.9. **Waiver of Notice.** Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice 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.
- 4.10. **Notice to Owners of Board Meetings.** All meetings of the Board must be open to attendance by all Owners. 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. The following provisions shall also be applicable to Board Meetings.

- 4.10.1. Assessments to be Considered.** Notice of any Board meeting at which Assessments against Owners are to be considered for any reason shall specifically contain a statement that Assessments will be considered and disclose the nature of estimated costs and description of the purpose for such Assessments. Notice of any Board meeting at which a special Assessment will be considered must be posted in a conspicuous place on the Condominium Property and mailed, delivered or electronically transmitted to the Owners of each Unit at least fourteen (14) days before the meeting, except in an emergency, and an affidavit of mailing must be retained as proof of mailing.
- 4.10.2. Budget Meetings.** Notice of any Board meeting held to formally adopt a budget, or to amend a previously adopted budget, must be mailed or electronically transmitted to the Owners. An affidavit of mailing must be retained as proof of mailing.
- 4.10.3. Meetings with Association Legal Counsel.** Meetings between either the Board, or a committee, and Association legal counsel, regarding proposed, threatened, impending or ongoing litigation, to the extent the meeting is held for the purpose of seeking or rendering legal advice, are closed to the members.
- 4.10.4. Personnel Meetings.** Meetings held for the purpose of discussing personnel matters are closed to Members.
- 4.10.5. Rule Changes.** Notice of any Board meeting at which a rule restricting the use of Units is to be considered must be mailed, delivered or electronically transmitted to each Owner at least fourteen (14) days before the meeting, and an affidavit of mailing shall be retained as proof of mailing.
- 4.10.6. Insurance Deductibles.** Any Board meeting at which the Board will establish the deductible feature of the Association's insurance policies shall require fourteen (14) days notice to be mailed, delivered, or electronically transmitted to the Owners. An affidavit of mailing must be retained as proof of mailing.
- 4.11. 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.
- 4.12. 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 he voted against such action or abstained from voting because of an asserted conflict of interest. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes 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.

- 4.13. **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. If the date, time, and place of its continuance are announced at the meeting being adjourned, then it shall not be necessary to give further notice of the meeting. 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.
- 4.14. **Joinder by Directors.** The joinder of a Director in the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the presence of such Director for the purpose of determining a vote, but not for determining a quorum.
- 4.15. **Presiding Officer.** The presiding Officer at Directors' meetings shall be the President. In the absence of the presiding Officer, the Directors present shall designate one of their number to preside. The presiding Officer may permit legal counsel or a managing agent to chair portions or the entirety of a Board meeting.
- 4.16. **Committees.** The Board may appoint from time to time such standing or temporary committees as the Board may deem necessary and convenient for the efficient and effective operation of the Association. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. Unless otherwise expressly required by law, the meetings of committees do not have to be conducted with the same formalities as required for meetings of the Board.
- 4.17. **Director Compensation.** Directors shall serve without pay but shall be entitled to reimbursement for expenses reasonably incurred. This provision shall not preclude the Board from employing an Officer or Director as an agent or employee of the Association.
5. **OFFICERS.** The executive Officers of the Association shall be the President, a Vice President, a Treasurer, and a Secretary all of whom shall be elected annually by and from the Board, and who may be peremptorily removed by a majority vote of the Directors at any meeting. The Board may also appoint such Assistant Officers as may be desired. Assistant Officers need not be Directors. The Board may, from time to time, appoint such other Officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. Any person may hold two or more offices except that the President shall not also be the Secretary or an assistant Secretary.
- 5.1. **President.** The President shall be the Chief Executive Officer of the Association, shall preside at all meetings of the Board and Association meetings. The President shall have general supervision over the affairs of the Association and shall have all of the powers and duties which are usually vested in the office of President of a corporation.
- 5.2. **Vice-Presidents.** The Vice-President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.
- 5.3. **Secretary.** The Secretary shall keep the minutes of all proceedings of the Directors and the Members. He shall attend to the giving and serving of all notices to the Members and Directors and other notices required by law. He shall keep and have custody of the records of the Association, except those of the Treasurer. He shall perform all other duties incident to the office of Secretary of the Association and as may be required by the Directors or the President.



**5.4. Treasurer.** The Treasurer shall have custody of all property of the Association, including funds, securities, and evidence of indebtedness. He shall keep the books of the Association in accordance with good accounting practices and shall perform all other duties incident to the office of the Treasurer of a corporation. He shall render to the President and Directors, at meetings of the Board, or, if ever they may require it, a full accounting of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if one is elected.

**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 him in connections with any proceedings to which he may be a party, or in which he may become involved, by reason of his being or having been an Officer or Director of the Association, or any settlement thereof, whether or not he is 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 this 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.** 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 Condominium 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;
- 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. To contract with and create or join in the creation of special taxing districts, joint councils, and the like;
- 6.22. To exercise the emergency powers authorized by Section 617.0207, Florida Statutes, Section 617.0303, Florida Statutes, and the Act, all as amended from time to time.

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 proposed annual budget of Common Expenses and anticipated revenues shall be prepared by the Board and shall include all anticipated income, revenue, and expenses for operation, Maintenance, and administration of the Condominium. The budget may contain a reasonable allowance for contingencies and provide funds for all operating expenses previously incurred. If at any time a budget shall prove insufficient, it may be amended by the Board of Directors for the remaining portion of the fiscal year, provided that notice of the Board meeting at which the revised budget will be considered, along with a copy of the proposed revisions to the budget, shall be mailed or delivered to each Member as provided herein.

If an adopted budget requires Assessments against the Units in any fiscal or calendar year that exceed 115% of the Assessments for the preceding year, the Board shall conduct a special meeting of the Members within 60 days on not less than 14 days' written notice to each Member, to consider a substitute budget upon written request of 10% of the Voting Interests to the Board, within 21 days after adoption of the annual budget. The Board shall mail, transmit, or deliver such notice to each Member at the address last furnished to 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 of the Association. 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 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 that 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. **Reserves.** The Board may establish in the budget one or more reserve accounts for capital expenditures, deferred Maintenance, or contingency reserves for unanticipated operating expenses. Board adopted reserve funds are not controlled by Chapter 718 Florida Statutes and therefore may be spent, waived, or used as approved by the Board. Membership adopted reserves are restricted by Chapter 718, Florida Statutes and therefore Membership adopted reserves may only be used, waived, or reduced on a yearly basis according to Chapter 720 Florida Statutes. The purpose of reserves is to provide financial stability and to avoid the need for special Assessments. The annual amounts proposed to be so reserved shall be shown in the annual budget.

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. 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. Written notice of each monthly or quarterly installment shall be sent to all Members, but failure to send (or 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. The foregoing shall be limited to the extent that any special assessment for betterments, alterations or improvements, shall first require the approval of a majority of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is present.
- 7.6. Certificate as to Assessment, Mortgagee Questionnaires.** Within ten (10) days after request by an Owner or mortgagee, the Association shall provide a certificate (sometimes referred to as an "estoppel letter") stating whether all Assessments and other monetary obligations owed to the Association by the Owner with respect to the Lot have been paid. Any person other than the Owner who relies upon such certificate shall be protected thereby. The Association may charge a preset fee, not to exceed the maximum amount permissible by law, to issue an estoppel certificate. The Association may but is not obligated to respond to mortgagee questionnaires. If the Association chooses to respond to a mortgagee questionnaire the Association may charge up to \$150.00 (in addition to any charge for an estoppel letter) plus attorney fees for doing so.
- 7.7. 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.
- 7.8. 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.

- 7.9. 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.

- 7.10. 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.

- 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, 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.

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

- 10.1. **Proposal of Amendments.** An amendment may be proposed by the President of the Association, a majority of Directors, or by one-third (1/3) of the entire Voting Interests.
- 10.2. **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.
- 10.3. **Adoption of Amendments.** A resolution for the adoption of a proposed amendment may be adopted by a vote of at least two-thirds (2/3) 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 not less than one hundred percent (100%) of the entire Board of Directors. 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.
- 10.4. **Effective Date.** A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Bylaws, which certificate shall be in the form required by law and shall be executed by the President or Vice-President with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Lee County, Florida.
- 10.5. **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.



- 10.6. 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 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.
- 11. THE MASTER ASSOCIATION.** By taking title to a Lot, an Owner also becomes a Member of Foxmoor Lakes Master 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.
- 11.1. 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.
- 11.2. 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's Bylaws.
- 12. MISCELLANEOUS.** The following miscellaneous provisions shall apply to these Bylaws and the Condominium Documents.
- 12.1. Conflicts.** The term "Condominium 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 Condominium 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.
- 12.5. Signature of President and Secretary.** Wherever the signature of the President of the Association is required hereunder and the President is not available, the signature of a

Vice President or other authorized officer may be substituted therefore, and wherever the signature of the Secretary of the Association is required hereunder and the Secretary is not available, the signature of an Assistant Secretary or other authorized officer may be substituted therefore, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities.

WITNESS my signature hereto this \_\_\_\_\_ day of \_\_\_\_\_, 2022,

**SAWMILL VILLAS CONDOMINIUM ASSOCIATION**

By: \_\_\_\_\_

\_\_\_\_\_  
(President)

\_\_\_\_\_

Witness Name: \_\_\_\_\_

\_\_\_\_\_

Witness Name: \_\_\_\_\_

STATE OF FLORIDA )

) SS:

COUNTY OF LEE )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2022 by \_\_\_\_\_, President of SAWMILL VILLAS CONDOMINIUM ASSOCIATION, INC., a Florida corporation, on behalf of the corporation. He/she is personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Printed Name of Notary Public

Seal:

\_\_\_\_\_  
(Signature of Notary Public)

Attest: \_\_\_\_\_

\_\_\_\_\_  
(Vice President or Secretary)

\_\_\_\_\_  
Witness Name: \_\_\_\_\_

\_\_\_\_\_  
Witness Name: \_\_\_\_\_