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(W-C 112)

**CERTIFICATE OF AMENDMENT TO THE
DECLARATIONS OF CONDOMINIUM FOR
PALM GREENS AT VILLA DEL RAY CONDOMINIUMS**

WHEREAS, the **Declarations of Condominium for Palm Greens at Villa Del Ray Condominiums** have been duly recorded in the Public Records of Palm Beach County, Florida, as follows:

	<u>Official Record Book</u>	<u>Page</u>
Palm Greens at Villa Del Ray, Phase 6 A Condominium	2875	1573
Palm Greens at Villa Del Ray, Phase 7 A Condominium	2963	1657
Palm Greens at Villa Del Ray, Phase 8 A Condominium	2949	1316
Palm Greens at Villa Del Ray, Phase 9 A Condominium	3011	271
Palm Greens at Villa Del Ray, Phase 10 A Condominium	3063	1381
Palm Greens at Villa Del Ray, Phase 11 A Condominium	3127	600
Palm Greens at Villa Del Ray, Phase 12 A Condominium	3370	1374
Palm Greens at Villa Del Ray, Phase 13 A Condominium	3248	1832
Palm Greens at Villa Del Ray, Phase 14 A Condominium	3311	1885
Palm Greens at Villa Del Ray, Phase 15 A Condominium	3503	576
Palm Greens at Villa Del Ray, Phase 16 A Condominium	3534	1793
Palm Greens at Villa Del Ray, Phase 17 A Condominium	3583	1012
Palm Greens at Villa Del Ray, Phase 18 A Condominium	4077	1970
Palm Greens at Villa Del Ray, Phase 18-A A Condominium	3601	304

and

WHEREAS, at a duly called and noticed meeting of the membership of **Number 2 Condominium Association - Palm Greens at Villa Del Ray, Inc.**, a Florida not-for-profit corporation, held on March 22, 2016, and recessed to and reconvened on April 21, 2016, the aforementioned **Declarations of Condominium** were amended and restated pursuant to the provisions of the aforesaid **Declarations of Condominium**.

NOW, THEREFORE, the undersigned hereby certify that the following Amended and Restated Declaration of Condominium is a true and correct copy of the Amended and Restated Declaration of Condominium adopted by the membership at the above-referenced meeting of the membership of the Association, and that the attached Amended and Restated Declaration of Condominium replaces the original **Declarations of Condominium** recorded on the dates and at the official records books and pages identified above for each of the aforementioned condominiums.

All of the exhibits to the original recorded Declarations of Condominium which are otherwise referenced in or attached to the attached Amended and Restated Declaration of Condominium remain intact and unchanged and are hereby incorporated by reference herein as if attached hereto and made a part hereof. Further, the blank in Paragraph 1.3 of each Amended and Restated Declaration of Condominium shall include the numerical designation of each such condominium in Palm Greens at Villa Del Ray as delineated above and as set forth in each of the above-described original Declarations of Condominium; and the blanks at the top of the first page of each Amended and Restated Declaration of Condominium shall include the recording information from the original Declarations of Condominium for each of the aforementioned condominiums.

**SEE ATTACHED
AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR
PALM GREENS AT VILLA DEL RAY CONDOMINIUMS**

* * * * *

WITNESS my signature hereto this 3rd day of May, 2016, at Delray Beach, Palm Beach County, Florida.

**NUMBER 2 CONDOMINIUM ASSOCIATION -
PALM GREENS AT VILLA DEL RAY, INC.**

[Signature]
Witness

Peter Dreifus
(PRINT NAME)

[Signature]
Witness

Susan Herman
(PRINT NAME)

By: [Signature]
President

Attest: [Signature]
Secretary

STATE OF FLORIDA :
COUNTY OF PALM BEACH :

The foregoing instrument was acknowledged before me this 3rd day of May, 2016, by Anthony DeNico and Lemore Tule as President and Secretary, respectively, of **Number 2 Condominium Association - Palm Greens at Villa Del Ray, Inc.**, a Florida not-for-profit corporation, on behalf of the corporation. They are personally known to me, or have produced _____ as identification and did take an oath.



[Signature] (Signature)
Gabriel Martinez (Print Name)
Notary Public, State of Florida at Large

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This instrument was prepared by:
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**AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
OF**

PALM GREENS AT VILLA DEL RAY PHASE ___, A CONDOMINIUM

NOTE: This document is a substantial rewording of the Declaration of Condominium executed by Developer on _____, recorded on _____, at Official Records Book _____, Page _____, of the Public Records of Palm Beach County (hereinafter the "Original Declaration"), except that all Exhibits to the Original Declaration which are not otherwise referenced herein or attached hereto remain unchanged and are hereby incorporated by reference herein as if attached hereto and made a part hereof.

1. INTRODUCTION AND SUBMISSION.

- 1.1 The Land. The real property comprising this condominium located in Palm Beach County, Florida, is more particularly described in Exhibit 1 to the Original Declaration, said real property being hereinafter referred to as the "Land".

Hereinafter referred to as Exhibit 1.

- 1.2 Submission Statement. The Developer submitted the Land and all improvements thereon to the condominium form of ownership and use in the manner provided for in the Florida Condominium Act, and the submission of the Land to the Condominium form of ownership remains effective.

All restrictions, reservations, covenants, conditions and easements contained herein shall constitute covenants running with the land or equitable servitudes upon the land, as the case may be, and shall be binding on each unit owner, his heirs, personal representatives, successors and assigns. Both the burdens imposed and the benefits provided shall run with the title to each Unit and their appurtenant interests in the common elements as defined herein.

1.3 Name. The name by which this condominium is to be identified is PALM GREENS AT VILLA DEL RAY PHASE ____, A CONDOMINIUM (hereinafter called the "Condominium").

2. **DEFINITIONS**. The following terms when used in this Declaration and in its exhibits, and as it and they may hereafter be amended, shall have the respective meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

2.1 "Act" means the Condominium Act (Chapter 718 of the Florida Statutes), as same may be amended from time to time.

2.2 "Articles" or "Articles of Incorporation" mean the Amended and Restated Articles of Incorporation of the Association, as amended from time to time.

2.3 "Assessment" means a share of the funds which are required for the payment of Common Expenses which from time to time is assessed against the Unit Owner.

2.4 "Association" or "Condominium Association" means NUMBER 2 CONDOMINIUM ASSOCIATION – PALM GREENS AT VILLA DEL RAY, INC., a not-for-profit Florida corporation, the entity responsible for the operation and maintenance of the Condominium.

2.5 "Association Property" means the property, real and personal, in which title or ownership is vested in, or which is dedicated on a recorded plat or leased to, the Association for the use and benefit of its members.

2.6 "Board" or "Board of Directors" means the representative body which is responsible for administration of the Association.

2.7 "Building" or "Buildings" means the structures situated on the Condominium Property in which the Units are located.

2.8 "By-Laws" mean the Amended and Restated By-Laws of the Association, as they are amended from time to time.

2.9 "Committee" means a group of Board members, Unit Owners or Board members and Unit Owners appointed by the Board or the President to make recommendations to the Board regarding a proposed annual budget or otherwise to take action on behalf of or make recommendations to the Board.

- 2.10 "Common Elements" means and includes the portions of the Condominium Property which are not included in the Units or Association Property, as defined herein.
- 2.11 "Common Expenses" means: (1) expenses of administration and management of the Condominium Property and the Association Property; (2) expenses of maintenance, operation, protection, repair or replacement of the Common Elements and all Association Property, as well as those portions of the Units for which the Association is responsible; (3) expenses declared Common Expenses by the provisions of this Declaration or by the By-Laws; (4) any valid charge against the Association or against the Condominium Property or the Association Property; (5) the costs of carrying out the powers and duties of the Association; (6) expenses related to the Recreation Association as outlined in this Declaration; and (7) all expenses properly incurred by the Association in the performance of its duties, including expenses specified in Florida Statute, Section 718.115, as amended or renumbered from time to time. Common expenses also include all reserves required by the Act or otherwise established by the Board, reasonable transportation services, insurance for directors and officers, road maintenance and operation expenses, in-house communications, security services, and pest control services for the Common Elements, which are reasonably related to the general benefit of the Unit Owners even if such expenses do not attach to the Common Elements or property of the Condominium. The cost of a master antenna television system or duly franchised cable television service obtained pursuant to a bulk contract shall also be a common expense, but shall be allocated on a per unit basis, and shall not include any other separate obligations of individual Unit Owners. At the Board's discretion, as determined on a case-by-case basis, the Common Expenses may also include the Association's restoration of, and payments for, electricity and other utilities for abandoned units to ensure that such abandoned units do not deteriorate, as well as the cost to restore abandoned units to habitable condition when such units have developed a proliferation of mold or other problems which have made or could result in making the unit uninhabitable. Additionally, should the Association choose to provide such service, the cost of communications services as defined in Chapter 202, information services, or Internet services obtained pursuant to a bulk contract is a common expense.
- 2.12 "Common Surplus" means the amount of all receipts or revenues, including Assessments, rents or profits collected by the Association which exceeds Common Expenses.
- 2.13 "Condominium Parcel" means a Unit together with the undivided share in the Common Elements appurtenant to said Unit; and when the context permits, the term includes all other appurtenances to the Unit.

- 2.14 "Condominium Property" means the lands, leaseholds, improvements and other personal property submitted to Condominium ownership by the Original Declaration, subject to the limitations thereof and exclusions therefrom, and all easements and rights appurtenant thereto intended for use in connection with the Condominium.
- 2.15 "County" means the County of Palm Beach, State of Florida.
- 2.16 "Declaration" or "Declaration of Condominium" means this instrument, together with all exhibits hereto, as well as all exhibits to the Original Declaration, as all may be amended from time to time.
- 2.17 "Developer" means the entity identified in the Original Declaration as Developer.
- 2.18 "Improvements" means all structures and artificial changes to the natural environment (exclusive of landscaping) located on the Condominium Property, including, but not limited to, the Buildings.
- 2.19 "Institutional Mortgagee" means any lending institution having a mortgage lien upon a Unit, including any of the following institutions or entities: (i) a federal or state savings and loan association or bank doing business in the State of Florida or a life insurance company doing business in Florida which is approved by the Commissioner of Insurance of the State of Florida, or bank or real estate investment trust, or a mortgage banking company licensed to do business in the State of Florida, or any subsidiary thereof licensed or qualified to make mortgage loans in the State of Florida or a national banking association chartered under the laws of the United States of America; or (ii) such other Lenders as the Board shall hereafter designate as such in writing which have acquired a mortgage upon a Unit; or (iii) any "Secondary Mortgage Market Institution" including Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and such other Secondary Mortgage Market Institution as the Board shall hereafter designate as such in writing which has acquired a mortgage upon Units.
- 2.20 "Lien for Charges" means a lien which is recorded to secure a Charge.
- 2.21 "Legal Fees" mean (a) reasonable fees for attorney and paralegal services incurred in negotiation and preparation for litigation, whether or not an action is actually begun, through and including all trial and appellate levels and postjudgment proceedings; and (b) court costs through and including all trial and appellate levels and postjudgment proceedings.
- 2.22 "Limited Common Elements" means those Common Elements the use of which is reserved to a certain Unit or Units to the exclusion of other Units, as

specified in this Declaration. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided. Any portions of the Condominium Property for which the Unit Owners are responsible for maintenance, repair or replacement under Sections 7.1 and 7.2 of this Declaration which are not located within the Unit boundaries as defined in Section 3.5 herein below shall be specifically designated as Limited Common Elements. The Limited Common Elements are further outlined in Article 3.6 of this Declaration.

- 2.23 "Recreation Association" means Palm Greens at Villa Del Ray Recreation Condominium Association, Inc., a not-for-profit Florida Corporation. Said Recreation Association is the entity responsible for the coordination, operation and the operation and maintenance of areas owned or controlled by the Recreation Association.
- 2.24 "Recreation Association Assessment" means the share of funds required for the payment of Recreation Association expenses which, from time to time, are assessed against each sub-association.
- 2.25 "Recreation Association Expenses" means those expenses for which the sub-association is liable to the Recreation Association including, but not limited to, the sub-association's proportionate share of insurance, taxes, operating and maintenance costs in connection with the operation, maintenance and repair of areas owned or controlled by the Recreation Association.
- 2.26 "Member" means an Owner who, or which, is a member of the Association.
- 2.27 "Phases" shall collectively mean the following Condominiums, each of which is governed by the Association:

Palm Greens at Villa Del Ray Phase	6	A Condominium;
Palm Greens at Villa Del Ray Phase	7	A Condominium;
Palm Greens at Villa Del Ray Phase	8	A Condominium;
Palm Greens at Villa Del Ray Phase	9	A Condominium;
Palm Greens at Villa Del Ray Phase	10	A Condominium;
Palm Greens at Villa Del Ray Phase	11	A Condominium;
Palm Greens at Villa Del Ray Phase	12	A Condominium;
Palm Greens at Villa Del Ray Phase	13	A Condominium;
Palm Greens at Villa Del Ray Phase	14	A Condominium;
Palm Greens at Villa Del Ray Phase	15	A Condominium;
Palm Greens at Villa Del Ray Phase	16	A Condominium;
Palm Greens at Villa Del Ray Phase	17	A Condominium;
Palm Greens at Villa Del Ray Phase	18	A Condominium;
Palm Greens at Villa Del Ray Phase	18-A	A Condominium.

The term "Phase" may be used to refer to an individual Condominium.

- 2.28 "Special Assessment" means any assessment levied against a unit owner other than the assessment required by a budget adopted annually.
- 2.29 "Unit" means a part of the Condominium Property which is subject to exclusive ownership.
- 2.30 "Unit Owner" or "Owner of a Unit" or "Owner" means the record owner of a Unit, as evidenced by the filing of a deed with the County.
- 2.31 "Utility Services" as used in the Condominium Act and construed with reference to this Condominium and as used in this Declaration, the Articles of Incorporation and By-Laws shall include, but not be limited to, electric power, gas, water, heating, air-conditioning, cable television, telephone, sprinkler, irrigation, drainage, sewage and garbage disposal.
- 2.32 "Villadelray" means that property described as Plat III Villadelray, according to the Plat thereof recorded in the public records of Palm Beach County, Florida.

3. DESCRIPTION OF CONDOMINIUM.

- 3.1 Identification of Units and Improvements. The condominium property consists of the Land, all easements and rights appurtenant thereto, and the buildings and other improvements constructed thereon, comprising in total the units, common elements and limited common elements. The principal improvements on the Land consist of the Buildings in which all the Units are located, tennis courts, parking areas, a swimming pool, and a recreational building. Each condominium within the Association contains the number of units listed below for a total of 717 condominium units in the Association:

Palm Greens at Villa Del Ray Phase	6	A Condominium: 77 units;
Palm Greens at Villa Del Ray Phase	7	A Condominium: 32 units;
Palm Greens at Villa Del Ray Phase	8	A Condominium: 50 units;
Palm Greens at Villa Del Ray Phase	9	A Condominium: 62 units;
Palm Greens at Villa Del Ray Phase	10	A Condominium: 56 units;
Palm Greens at Villa Del Ray Phase	11	A Condominium: 92 units;
Palm Greens at Villa Del Ray Phase	12	A Condominium: 64 units;
Palm Greens at Villa Del Ray Phase	13	A Condominium: 73 units;
Palm Greens at Villa Del Ray Phase	14	A Condominium: 57 units;
Palm Greens at Villa Del Ray Phase	15	A Condominium: 23 units;
Palm Greens at Villa Del Ray Phase	16	A Condominium: 37 units;
Palm Greens at Villa Del Ray Phase	17	A Condominium: 54 units;
Palm Greens at Villa Del Ray Phase	18	A Condominium: 26 units;
Palm Greens at Villa Del Ray Phase	18-A	A Condominium: 14 units.

- 3.2 Designation of Units. Each Unit is designated by a Phase number which indicates the location of the unit within the community and a Unit Number. The identification, type and location of each Unit can be established from Exhibit "B" attached to the Original Declaration and incorporated herein by reference. No Unit bears the same designation as any other Unit.
- 3.3 Surveyor's Certificate. Attached, as an Exhibit to the Declaration of Condominium, as originally recorded, is a certificate of a surveyor authorized to practice in the State of Florida, certifying that the construction of the improvements is substantially complete. The survey is incorporated herein by reference. The survey in conjunction with the text of this Declaration is an accurate representation of the location and dimensions of the improvements and that the identification, location and dimensions of the Common Elements, Limited Common Elements and of each Unit can be determined from these materials.
- 3.4 Condominium Parcel. There shall pass with a Unit as appurtenances thereto (a) an undivided share in the Common Elements as set forth in Exhibit 4 to the Original Declaration titled "Unit Designations and Schedule of Shares"; (b) the exclusive right to use such portion of the Common Elements as may be provided in this Declaration; (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in airspace which is vacated shall be terminated automatically; (d) membership in the Association with the full voting rights appurtenant thereto; (e) liability for a share of the common expenses as set forth in Exhibit C to the Original Declaration, and (f) other appurtenances as may be provided by this Declaration.
- 3.5 Unit Boundaries. Each Unit, which term, as used in this Section concerning boundaries, shall include that part of the building containing the Unit that lies within the boundaries of the Unit, which boundaries are as follows:
- (a) Each condominium unit shall extend to the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding the unit, but shall not be deemed to include pipes, wires, conduits or other public utility lines running through the condominium unit which are utilized for or serve more than one condominium unit, which items are by these presents hereby made a part of the common elements. A unit shall be deemed to include the interior walls and partitions which are contained in a condominium unit, and also shall be deemed to include the inner decorated and/or finished surfaces of the perimeter walls, floors and ceilings of the condominium unit, including plaster, paint, wallpaper, etc.

- (b) All pipes, wires, conduits and other utility lines, regardless of location, constitute part of the Common Elements, up to their outlets. However, the portion of the wiring or pipes from the common trunk line extending out to serve only one particular unit shall be deemed a limited common element of the particular unit.
- (c) The balcony or terrace abutting a Unit is a Limited Common Element appurtenant to that Unit, and its use is restricted to that Unit to which it is appurtenant. The boundary lines of each terrace abutting a Unit are the interior vertical and horizontal surfaces thereof, and the exterior unpainted finished surface of the perimeter baluster, railing or wall abutting the terrace. The planes of all boundaries shall be extended to the point of intersection with all other boundaries, if necessary.
- (d) Any ventilation chases and plumbing chases located within a Unit are Common Elements. The boundary lines of each chase shall be the exterior unpainted surfaces thereof.

3.6 Limited Common Elements. Limited Common Elements shall mean and comprise that portion of the Common Elements assigned or reserved for the exclusive use of a particular Unit or Units as an appurtenance thereto as defined in Section 2.22 of this Declaration and as may be set forth in the surveys which are exhibits to the Original Declaration and which are incorporated herein by reference. The Limited Common Elements also include:

- (a) If a unit was originally built with a terrace or patio in front of or behind the Unit, the interior and exterior of such originally constructed terrace or patio is a Limited Common Element appurtenant to the Unit to which it abuts;
- (b) Air conditioning and heating equipment servicing a Unit and located outside of that Unit, including but not limited to roof-top or ground level compressors, and any air conditioning ducts, conduits, pipes, tubing, and condensation drain lines servicing a particular Unit's air conditioning system, located outside the Unit served.
- (c) The interior walls, floor and ceiling and air space of the storage closet, along with the storage closet's door are also designated as limited common elements.
- (d) All portions of the Condominium Property for which the Unit Owners are responsible for maintenance, repair and replacement under this Declaration which are not located within the Unit boundaries set forth in Section 3.2.

- (e) The following areas shall specifically be designated as Limited Common Elements: exterior screens, sliding glass doors, exterior doors and windows serving a Unit, including, without limitation, all frames, locks and operating mechanisms appurtenant thereto, as well as trim and areas requiring caulking.

3.7 Easements. The following easements are hereby created (in addition to any easements created under the Act):

- (a) Perpetual Nonexclusive Easement. The Common Elements shall be, and the same are hereby declared to be subject to a perpetual non-exclusive easement in favor of all of the Owners of Units in the Condominium for their use and the use of their immediate families, guests and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said Unit Owners.
- (b) Settlement or Movement of Improvements. In the event that any Unit shall encroach upon any Common Elements for any reason not caused by the purposeful or negligent act of the Unit Owner or Owners or agents of such Owner or Owners, then an easement appurtenant to such Unit shall exist for the continuance of such encroachment upon the Common Elements for so long as such encroachment shall naturally exist; and, in the event that any portions of the Common Elements shall encroach upon any Unit, then an easement shall exist for the continuance of such encroachment of the Common Elements into any Unit for so long as such encroachment shall naturally exist.
- (c) Air Space. The Owner of each Unit shall have an exclusive easement for the use of the air space occupied by said Unit as it exists at any particular time and said Unit may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time.
- (d) Utility and other Easements. The Condominium property of this Condominium shall be subject to such easements for utilities as may be required to properly and adequately serve this Condominium. Each of said easements, whether heretofore or hereafter created, shall constitute a covenant running with the land of the Condominium and, notwithstanding any other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonably interfere with its proper and intended use and purpose and shall survive the termination of the Condominium. Notwithstanding the foregoing, the Association,

through the Board of Directors, has the power, without joinder of any Unit Owner, to grant, modify or move easements such as electric, gas, cable television, or other access, utility or service easements, or relocate any existing easements, in any portion of the Common Elements or Association Property, as the Board shall deem necessary or desirable for the proper operation and maintenance of the Condominium. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the Units. The Association, through the Board of Directors, may also transfer title to utility-related equipment, facilities or material, and may take any other action to satisfy the requirements of any utility company or governmental agency.

- (e) Ingress and Egress. A non-exclusive easement shall exist in favor of each Unit Owner and occupant, their respective guests, tenants, licensees and invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portion of the Common Elements as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portion of the Common Elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways.

4. RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS.

The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit, and the exclusive right to use all appropriate appurtenant Limited Common Elements shall not be separated from the Unit and shall pass with the title to the Unit, whether or not separately described. The appurtenant share in the Common Elements and Common Surplus, and the exclusive right to use all Limited Common Elements appurtenant to a Unit, except as elsewhere herein provided to the contrary, cannot be conveyed or encumbered except together with the Unit. The respective shares in the Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common Elements, the Condominium Property, or any part thereof, shall lie, except as provided herein with respect to termination of the Condominium.

5. OWNERSHIP OF UNITS, COMMON ELEMENTS AND COMMON SURPLUS AND SHARE OF COMMON EXPENSES; VOTING RIGHTS.

- 5.1 Percentage Ownership and Shares. Each Unit shall have, as an appurtenance thereto, an undivided percentage interest in the Common Elements and a percentage share of the Common Expenses and Common Surplus, as set forth in Exhibit "4" of the Original Declaration.

- 5.2 Voting. An Owner or Owners of a Unit shall collectively be entitled to one (1) vote (hereinafter referred to as "Voting Interests").

6. **AMENDMENTS**. Except as elsewhere provided herein, amendments to this Declaration may be effected as follows:

- 6.1 By the Association. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered or the written agreement through which a proposed amendment is to be considered. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors of the Association or by not less than one-fourth (1/4) of the total voting interests of Units of the Association. Except as elsewhere provided, such approvals must be by not less than a majority of all of the eligible voting interests of the Association and such amendment shall apply to all of the condominiums in the Association. Members may vote on amendments in person or by limited proxy at a members' meeting at which a quorum is established or by written consent in lieu of a meeting, provided a quorum participates.
- 6.2 Execution and Recording. An amendment shall be evidenced by a certificate of the Association which shall include recording data identifying the Declaration and shall be executed with the same formalities required for the execution of a deed. An amendment of the Declaration is effective when the applicable certificate is properly recorded in the Public Records of Palm Beach County. No provision of this Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of this Declaration shall contain the full text of the provision to be amended; new words shall be inserted and the text underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Declaration. See provision ... for present text." Non-material errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.
- 6.3 Proviso. No amendment may change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to the Unit, or change the proportion or percentage by which the Owner of the Unit shares the Common Expenses and owns the Common Surplus unless the record title owner of the Unit and all record title owners of liens on the Unit join in the execution of the amendment.

6.4 Rights of Institutional Mortgagees. No amendment or change to this Declaration or to the exhibits hereto shall be effective to affect or impair the validity or priority of a first mortgage held by an Institutional Mortgagee encumbering a Condominium Parcel, or to affect or impair the rights granted herein to Institutional Mortgagees, without the written consent thereto by the Institutional Mortgagee owning and holding the mortgage encumbering the parcel, which consent shall be executed with the formalities required for deeds and recorded with the amendment.

6.5 Scrivener's Errors. The Board of Directors may correct scrivener's errors in the Declaration of Condominium without the necessity of a vote of the Unit Owners.

7. **MAINTENANCE, REPAIR AND REPLACEMENT OF UNITS, LIMITED COMMON ELEMENTS, COMMON ELEMENTS AND ASSOCIATION PROPERTY.**

7.1 Units. All maintenance, repairs and replacements of, in or to any Unit, the boundaries of which are defined in Section 3.5 hereof, shall be performed by the Owner of such Unit at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein. The foregoing responsibility of the Unit Owner includes, but is not limited to, all electrical, telephone and plumbing fixtures, shower pans, lines, pipes, outlets, wiring and connections within his or her Unit and those serving only his or her Unit, up to the common line or junction, appliances, carpets and all other floor, wall and ceiling coverings, all interior surfaces, the heating and, except as provided in Section 7.3, air-conditioning equipment (wherever situated, whether inside or outside of the Unit) and everything else within the boundaries of the Unit except to the extent the Association is specifically responsible therefor under this Declaration. The Unit Owner shall also maintain, repair and replace, at his, her or its sole cost and expense, all portions of any hurricane protective covering(s) that the Unit Owner may install, including such portion of the Common Elements, if any, to which the hurricane protective covering(s) is/are attached, which cost and expense shall also include the cost and expense of removal and/or reinstallation by the Association of the hurricane protective covering(s) if necessary or required in order for the Association to discharge its obligations hereunder. Notwithstanding the foregoing, the Association will maintain air conditioning drain lines in two story buildings only as the drain lines are shared within each stack.

7.2 Specific Unit Owner Responsibilities.

- (a) The Unit Owner shall be responsible for the maintenance, repair and replacement of all exterior screens, screen doors, doors and windows serving a Unit, including, without limitation, all frames, locks and

operating mechanisms appurtenant thereto, as well as trim and caulking expenses. Without limiting the generality of the foregoing, except as may be permitted by the Act, no Unit Owner may decorate, alter or modify exterior screens, doors or windows or the framework, locks or operating mechanisms thereof in any manner whatsoever without the approval of the Board of Directors of the Association.

- (b) The Unit Owner shall be responsible for the maintenance, repair and replacement of, at his or her own expense, any portions of the air-conditioning and heating systems serving only a particular Unit, including, but not limited to, filters, the compressor, condenser, motor, fan, air handler, discharge lines, and all related parts, without regard to whether such items are located within the boundaries of the Units, except as provided in Section 7.3 below.
- (c) The Unit Owner shall be responsible for the maintenance, repair, and replacement of, at his or her own expense, all fans, stoves, hot water heaters, refrigerators, dryer vents (which includes the entire dryer vent system up to and including the dryer vent hood on the exterior of the building; the portions outside of the unit being deemed a limited common element), sinks, toilets, tubs, showers, shower pans, or other appliances or equipment, including any fixtures and/or their connections required to provide Utility Service to his Unit.
- (d) The Unit Owner shall be responsible for the maintenance, repair, and replacement of, at his or her own expense, the interior walls, floor and ceiling of the storage closet, along with the storage closet's exterior door.
- (e) The Unit Owner shall be responsible for the maintenance, repair and replacement of, at his or her own expense, as necessary, the circuit breaker box within or serving the unit and all electrical lines, conduits or fixtures running from the circuit breaker box into the Unit up to and including the fixtures or outlets within the Unit.
- (f) The Unit Owner shall be responsible for the maintenance, repair and replacement of, at his or her own expense, as necessary, of all water utility lines from the point at which they enter the unit boundaries including but not limited to the fixtures or outlets within the unit within the Unit boundaries.
- (g) Unit Owners shall promptly report to the Association any defects or need for repairs, the responsibility for the remedy of which is that of the Association.

- (h) All maintenance, repair or replacement for which the Unit Owners are responsible shall be performed by contractors with appropriate licensure and insurance. The Board of Directors may set reasonable standards for appropriate levels of insurance and shall require proof of licensure, insurance and the procurement of any required permits before permitting a contractor on the Condominium Property. The Board may deny access to the property to any contractor performing work that requires approval from the Board of Directors hereunder until such approval has been granted in the manner required herein.
- (i) Unit Owners shall keep the Condominium and his Unit free of all mechanics liens or other liens which may be placed by Contractor and shall remain liable for the cost to remove such claims of lien.
- (k) Absentee Unit Owners are responsible to periodically check their Units for maintenance issues, including but not limited to leaks. If a Unit Owner is absent, it is the Unit Owner's responsibility to have someone check the Unit on his or her behalf and report maintenance issues to the Association.
- (l) If a Unit Owner fails to perform promptly his responsibilities of repair, maintenance and replacement, the Association shall be entitled to seek all legal and equitable remedies available, including the right to take legal action to require the Unit Owner to perform such responsibilities. In addition, the Association shall be entitled, but not required, to perform the necessary work at the cost of the Unit Owner and shall be entitled to access to the Unit for that purpose. The Association shall be entitled, but not required, to file a Lien for Charges against the Unit for the amount of any cost which it incurs in performing any such maintenance, repair or replacement work which is not reimbursed to the Association by the Unit Owner immediately upon demand and such lien shall be enforceable in the same manner as any Assessment under Section 12 of this Declaration, including, but not limited to, by recordation and foreclosure of a claim of lien against the Unit. Nothing shall preclude the Association from acting as the Owner's agent and obtaining the services of contractors to perform Unit Owner maintenance responsibilities in the event of an emergency, or in non-emergency situations, provided that in non-emergency situations, the Association and the Owner so agree, or absent such agreement when such work is deemed necessary, as determined by the Board to facilitate projects involving the Association's maintenance of the Condominium Property or to protect the Unit, other Units or the Common Elements. In all such cases the Unit Owner shall be deemed to consent to reimbursement of expenses incurred, secured by such rights as exist for collecting Common Expenses under these Condominium

Documents through a Lien for Charges. Unit Owners shall at all times be responsible to ensure, whether or not Association approval is required for work being done within the Unit, that all contractors and other persons performing services for the Unit Owner are properly licensed and insured, including required Worker's Compensation insurance, and that the Condominium Property is kept free from liens. The Unit Owner shall hold the Association harmless from any claims of any nature arising out of failure to comply with these requirements.

- (m) Water beds, including but not limited to water mattresses or floatation mattresses are prohibited from being used in any unit at the condominium.
- (n) Spas and spa systems, including but not limited to hot tubs and whirlpools, except for those which may be installed in the recreation facilities by the Association from time to time, are prohibited from being installed and used in, on, or about any unit (including but not limited to the balcony or patio) or in, on, or about, any portion of the limited common elements and common elements.

7.3 Common Elements and Association Property. Except to the extent (i) expressly provided to the contrary herein, or (ii) proceeds of insurance are made available therefor, the Association shall be responsible, at Common Expense, for all maintenance, repairs and replacements in or to the Common Elements, Limited Common Elements and Association Property and all portions of the Condominium (except interior wall surfaces of Units) contributing to the support of the building, which portions shall include, but not be limited to:

- (a) the outside walls of the Building;
- (b) chasing and load bearing railings, walls or columns, boundary walls of Units;
- (c) all fixtures on the exterior of the Buildings which were part of the original equipment or installations and are common to all Units;
- (d) all floor and ceiling slabs, including, but not limited to, the slabs of all terraces and balconies;
- (e) all conduits, chases, chase areas, ducts (excluding air conditioning ducts which service only one unit, which are a Limited Common Element of the Unit), plumbing, Common Element air-conditioning (not including any compressor, air handler or other components

identified in Section 7.2(b) above which serve only one particular Unit);

- (f) all electrical lines, conduits or fixtures from the shared or common distribution facility or conduit up to, but not including, the circuit breaker box within or serving the Unit;
- (g) all plumbing lines, drain lines, conduits or fixtures from the shared or common distribution facility or conduit up to the point at which such plumbing lines enter the boundaries of the individual Condominium Units.
- (h) all other utilities contained within the Common Elements and those located within a Unit which service part or parts of the Condominium other than the Unit within which contained;
- (i) all property owned by the Association and other property contemplated by and to the extent the same is consistent with the terms hereof;
- (j) the maintenance, repair and replacement of electrical conduits and circuits from the outside meter room up to the circuit breaker box within the Unit.
- (k) the maintenance, repair and replacement of air conditioner condensate drain lines shared by more than one unit. Air conditioner condensate drain lines which are only for the use of one unit shall remain the maintenance obligation of the unit owner whose unit is served by the drain line.

7.4 Incidental Damage. All incidental damage caused to a Unit by the Association's discharge of its responsibilities under this Declaration up to a maximum of \$2,500.00 per unit (unless caused by negligent or intentional misconduct for which the Association is responsible, in which case no limitation shall apply). The Association's aforementioned responsibilities shall not apply to the extent such maintenance, repair or replacement arises from or is necessitated by the negligence, misuse or neglect of one or more Unit Owners, their families, lessees, guests, employees, agent, contractors or invitees, in which case such cost and expense shall be paid solely by such Unit Owners, and shall be enforceable in the same manner as any Assessment under Section 12 hereof, including, but not limited to, by recordation and foreclosure of a claim of lien against the Unit.

7.5 Hurricane Protective Coverings. The hurricane protective coverings installed shall be consistent with such guidelines and specifications as may be made and amended from time to time by the Board of Directors. The cost of

installing, maintaining, repairing, replacing and operating the hurricane protective coverings shall be the responsibility of each Unit Owner. All hurricane protective covering installations must have prior written approval from the Board of Directors, which may be conditioned upon the submission of appropriate plans and specifications evidencing that the proposed installation will conform to the Association's guidelines and specifications. All hurricane protective coverings installed must be maintained, repaired and replaced by the Unit Owner, as appropriate, so as to be in good working order at all times, which shall require that the hurricane protective coverings are still within their useful life by industry standards and are in sufficiently good condition to perform their intended purpose. The Association shall have the authority, but not the obligation, as a Common Expense, to schedule and conduct inspections of the hurricane protective coverings on all Units at such times as the Board determines such inspections be necessary and proper in order to protect the interests of the Association and insure that all shutters are functioning properly. All hurricane shutters on the exterior of the unit must remain in a fully open position when there is no tropical storm or hurricane watch or warning issued for the area covering the condominium and the unit is occupied. The Board of Directors may adopt reasonable rules regarding hurricane protection from time to time. If a Unit Owner is not in town when a tropical storm or hurricane watch or warning is issued by the National Weather Service or such other governmental authority having jurisdiction, covering the area where the Condominium is located, the Unit Owner is responsible for having someone close his or her hurricane shutters.

- 7.6 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.
- 7.7 Pest Control. The Association will supply pest control services for the exterior perimeter of each building and all the Common Elements, with the cost thereof being part of the Common Expenses. If any building must be "tented" or otherwise treated in a manner that requires the Owners to vacate their Units, the Association shall only be responsible for the cost of the actual tenting or other treatment, and not for incidental expenses of any displaced Unit Owners. The Association may, but is not obligated to, provide pest control services for the Units at Common Expense. If pest control is not handled as a Common Expense for the interiors of the Units but becomes necessary for a particular unit because the Unit Owner has failed to maintain his/her Unit, the Association may provide such pest control services to the Unit at the Board's discretion to alleviate a problem, the cost becoming a Lien for Charges against the Unit collectible in the same manner as provided in Article 12 of this Declaration.

8. **ADDITIONS, ALTERATIONS OR IMPROVEMENTS TO COMMON ELEMENTS OR ASSOCIATION PROPERTY BY THE ASSOCIATION.**

- 8.1 Approval by Unit Owners. No portion of the Common Elements and Association Property may be subject to any additions, alterations or improvements (as distinguished from maintenance, repairs and replacements) which involve a Common Expense in excess of five (5%) percent of the annual budget then in effect for Common Expenses, including operating expenses and reserves, for any individual addition, alteration or improvement, or in excess of ten (10%) percent of the annual budget then in effect, including operating expenses and reserves, for all additions, alterations or improvements undertaken within a fiscal year, unless such additions, alteration or improvements have been approved by not less than two-thirds (2/3) of the eligible and participating Voting Interests of the Association who are present, in person or by proxy, at a meeting called for that purpose at which a quorum is established or voting by written consent in lieu of a meeting, where at least a quorum of the membership participates. The aforesaid approval of the Voting Interests shall not be necessary if the material alteration, addition or improvement is necessary or beneficial to maintain, repair, replace or protect the Common Elements; or to maintain or provide security or safety measures for the residents in the Condominium; in which case, the approval of the Board of Directors is all that is necessary to effect same.
- 8.2 Approval by Board. Any additions, alterations or improvements to the Common Elements or Association Property, or any part thereof, costing less than the five (5%) percent or ten (10%) percent thresholds described in Section 8.1, above, may be approved by the Board of Directors without approval of the Unit Owners.
- 8.3 Costs are a Common Expense. The cost and expense of any such additions, alterations or improvements to such Common Elements or Association Property undertaken by the Association shall constitute a part of the Common Expenses and shall be assessed to the Unit Owners accordingly.
- 8.4 Damage Unable to Be Repaired in a Commercially Reasonable Manner. If the tennis court which currently has structural issues due to the deterioration of the ground upon which it sits is unable to be repaired in a commercially reasonable manner, such tennis court may be replaced by an alternate recreation facility or open space area at the Board of Directors' discretion. A "commercially reasonable manner" shall be defined for purposes of this paragraph to mean that it would cost less to repair the tennis court than it would cost to remove it and re-sod the area and that the tennis court could

be repaired without risk of damaging other areas of the Condominium Property.

9. **ADDITIONS, ALTERATIONS OR IMPROVEMENTS TO UNITS, LIMITED COMMON ELEMENTS, COMMON ELEMENTS AND ASSOCIATION PROPERTY BY UNIT OWNER.**

9.1 **Prohibited Alterations.** No Unit Owner shall make any addition, alteration or improvement in or to the Common Elements or Association Property. The only exception to the foregoing prohibition is for the planting of approved foliage on the property within eighteen inches from the exterior wall of the condominium building by the Unit Owner whose Unit abuts the area where the plantings will be located. Such plantings must be approved by the Board of Directors, in writing prior to the commencement of any planting. Such approval may be withheld if the Board does not deem such plantings appropriate for any reason. Such plantings may be removed by the Association or its agents if not approved or if the plantings extend beyond eighteen inches from the exterior wall of the building. The cost of such removal and replanting or resodding, if any, will become a Lien for Charges against the Unit and Unit Owner responsible for the plantings and may be collected in the manner outlined in Section 12 of this Declaration. The Board shall be able to remove and dispose of such plantings without liability to the Unit Owner, resident, or tenant who installed the plantings. Patios may not be installed on the Common Elements.

9.2 **Consent of the Board of Directors.**

- (a) No Unit Owner shall make any addition, alteration or improvement in or to the interior of the Unit which is structural in nature, or which impacts the Common Elements or Limited Common Elements in any way, including, but not limited to, any work which involves piercing the Unit boundary, which changes the appearance of any portion of the exterior of the Building, which relocates or installs new electrical, plumbing, telephone, air conditioning or heating systems, toilets, sinks, tubs, showers, dishwashers, refrigerators, ranges or any utility line, or which requires the issuance of a permit from a governmental or regulatory authority or agency without the prior written consent of the Board of Directors. Satellite dishes may not be affixed to the Common Element walls or roofs and may only be used in accordance with federal guidelines as amended from time to time.
- (b) Any and all requests for electrical, mechanical or structural additions, alterations or improvements must be in writing and must be submitted to the Association with plans prepared and sealed by the appropriate professional (i.e., architect, engineer, etc.).

- (c) The Board shall have the obligation to answer any written request by a Unit Owner for approval of such an addition, alteration or improvement within thirty (30) days after receipt of such request and all sealed plans or thirty (30) days after receipt of any additional information requested by the Board within thirty (30) days of receipt of the initial request.
- (d) Failure to respond within the stipulated time shall constitute the Board's consent.
- (e) The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, which may not be waived by the Association under any circumstances, and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise.
- (f) Once approved by the Board of Directors, such approval may not be revoked.
- (g) A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and all future owners of the Unit, and their heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, its Board members, officers and employees, and all other Unit Owners harmless from and to indemnify them for any liability or damage to the Condominium Property and expenses arising therefrom, and shall be solely responsible for the maintenance, repair, replacement and insurance for such additions, alterations or improvements from and after the date of installation or construction thereof as may be required by the Association, and shall also be responsible for all costs associated with removal and reinstallation of same when necessary, in the discretion of the Board of Directors, in connection with the Association's performance of its maintenance obligations under this Declaration.
- (h) The Board may impose the requirements set forth in Paragraph 7.2(g) above and may require the execution of a covenant to run with the Unit to memorialize the application, approval, conditions of approval and future obligations of the Unit Owner and may condition its approval of any addition, alteration or improvement hereunder upon the preparation, execution and recording of such a covenant at the Unit Owner's expense.

9.3 Additional Unit Owner Responsibility for Alterations and Additions.

- (a) Any modifications, installations, or additions to the interior or exterior of the Unit, Common Elements, Limited Common Elements or Association Property made by a Unit Owner shall be the financial responsibility of the Unit Owner and his or her grantees, heirs, successors and assigns and any future Owners of the Unit, including, but not limited to, insurance, maintenance, repair, and replacement of the modifications, installations or additions, regardless of whether the modification, installation or addition was installed by the current or a former Unit Owner.
- (b) The Association may require any modification, alteration, or addition to the Condominium Property installed by a Unit Owner to be removed in connection with the Association's discharge of its obligations under this Section. In such cases, the Unit Owner who installed the alteration, addition, or improvement (and/or their successors in title) shall be obligated to reimburse the Association for any costs incurred by the Association in connection with the removal and/or re-installation of the alteration, addition or improvement, with said obligation being secured by a Lien for Charges enforceable in the same manner as a lien for Common Expenses as provided in Section 12 herein below.
- (c) The Association, its contractors and agents, shall not be liable for any damage to the item arising out of its removal and/or reinstallation, unless occasioned by the gross negligence or willful misconduct of the Association or its contractor or agent.

10. OPERATION OF THE CONDOMINIUM BY THE ASSOCIATION; POWERS AND DUTIES.

10.1 Powers and Duties. The Association shall be the entity responsible for the operation of the Condominium. The powers and duties of the Association shall include those set forth in the Amended and Restated By-Laws and Amended and Restated Articles of Incorporation of the Association (respectively, Exhibits "A" and "B" annexed hereto), as amended from time to time. In addition, the Association shall have (i) all the common law and statutory powers of a corporation not for profit and for profit under the laws of Florida that are not in conflict with the provisions of the Articles, the Declaration, the By-Laws or the Act; (ii) the powers and duties set forth in the Act; as well as (iii) all powers and duties granted to or imposed upon it by this Declaration, including without limitation:

- (a) The irrevocable right to have access to each Unit from time to time during reasonable hours when necessary for the inspection,

maintenance, repair or replacement of any Common Elements, Association Property, or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or at any time as necessary to prevent damage to the Common Elements, Association Property, or to a Unit or Units. Unit Owners are required to provide the Association with a working key to all exterior front doors of the Unit for access to the Unit for the foregoing purposes. If the Owner fails to provide a key that permits access to the Unit, the Association shall not be liable for any damage caused to the Unit or to the Unit Owner's door, locking mechanisms, or property as a result of the Association gaining access to the Unit or any delay in gaining such access, and the Owner who failed to provide a key for access to the Unit shall be liable for any damages to the Common Elements and Association Property that result from the Association gaining access or from any delay in the Association gaining access. The Unit Owner shall also be responsible for any costs to the Association resulting from the inability to gain immediate access, including but not limited to the cost of resulting damage, and locksmith charges. Such costs shall become a Lien for Charges collectible in the manner outlined in Article 12 of this Declaration.

- (b) The power to make and collect regular and Special Assessments and other charges against Unit Owners and to regulate, administer, convey, lease, maintain, repair and replace the Common Elements and Association Property.
- (c) The power to acquire or convey title to real property (excluding Units in the Condominium) and to mortgage Association-owned real property upon the approval of seventy-five (75%) percent of all the voting interests of the Association either at a meeting or by written agreement.
- (d) The power to purchase Units in the Condominium and to hold, lease, mortgage or sell a Unit so acquired, subject to the limitations thereon in the Articles of Incorporation on the manner in which Units may be acquired.
- (e) The power to acquire, sell or mortgage personal property and to hold, regulate, administer, lease, maintain, repair, and replace same.
- (f) The right to grant, modify or move easements which are part of or cross the Common Elements or Association Property.
- (g) The duty to maintain official records according to good accounting practices, and the requirements of the Condominium Act, as same may be amended from time to time.

- (h) The power to contract for the management and maintenance of the Condominium Property and to authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules, maintenance, repair and replacement of those portions of the Condominium Property for which the Association is obligated or authorized to provide same and such other management functions as the Board of Directors may delegate with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted in the Condominium documents and the Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.
- (i) The power to borrow money, execute promissory notes and other evidences of indebtedness and to give as security therefor mortgages and security interests in property owned by the Association, subject to the limitation on mortgaging Association real property set forth in Paragraph (c) of this Article 10.1 or a lien on assessments.
- (j) The power to adopt and amend rules and regulations concerning the details of the operation and use of the Units, the Common Elements, Association Property and the Condominium Property.
- (k) The power to lease and/or charge a fee for the exclusive use of Common Elements (other than Limited Common Elements) or Association Property to any Unit Owner or other third party being granted a right to such exclusive use.
- (l) All of the powers which a corporation not for profit in the State of Florida may exercise.

In the event of conflict among the powers and duties of the Association and the terms and provisions of this Declaration, or the exhibits attached hereto, this Declaration shall take precedence over the Articles of Incorporation, By-Laws and applicable rules and regulations; the Articles of Incorporation shall take precedence over the By-Laws and applicable rules and regulations; and the By-Laws shall take precedence over applicable rules and regulations, all as amended from time to time. Notwithstanding anything in this Declaration or its exhibits to the contrary, the Association shall at all times be the entity having ultimate control over the Condominium, consistent with the Act.

- 10.2 Limitation upon Liability of Association. Notwithstanding the duty to maintain and repair parts of the Condominium Property, the Association is not liable to Unit Owners or any other person for injury or damage, other than for the cost of maintenance and repair of items for which the Association is otherwise responsible, caused by any latent or unknown condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any alterations or improvements done by or on behalf of any Unit Owners, regardless of whether or not same shall have been approved by the Association pursuant to the provisions hereof.
- 10.3 Restraint upon Assignment of Shares in Assets. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his/her Unit.
- 10.4 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 or vote by written agreement, that decision shall be expressed by the same person who would cast the vote for that Unit if at an Association meeting, unless the joinder of all record Owners of the Unit is specifically required by this Declaration or by law.
- 10.5 Acts of the Association. Unless the approval or action of Unit Owners and/or a certain specific percentage of the Board of Directors of the Association is specifically required in this Declaration, the Articles of Incorporation or By-Laws of the Association, applicable rules and regulations or applicable law, all approvals or actions required or permitted to be given or taken by the Association under the Declaration, Articles of Incorporation or By-Laws shall be given or taken by the Board of Directors, without the consent of Unit Owners, and the Board may so approve and act through the proper officers of the Association without a specific resolution. When an approval or action of the Association is permitted to be given or taken hereunder or thereunder, such action or approval may be conditioned in any manner the Association deems appropriate or the Association may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal.
11. **DETERMINATION OF COMMON EXPENSES AND FIXING OF ASSESSMENTS THEREFOR.** The Board of Directors shall from time to time, and at least annually, prepare a budget for the Association, determine the amount of Assessments payable by the Unit Owners to meet the Common Expenses and allocate and assess such Assessments among the Unit Owners in accordance with the provisions of this Declaration and the By-Laws. Additionally, the Board of Directors may levy Special Assessments when determined by the Board of Directors to be

necessary. The Board of Directors shall advise all Unit Owners promptly in writing of the amount of the Assessments payable by each of them as determined by the Board of Directors as aforesaid and shall furnish copies of each budget, on which such Assessments are based, to all Unit Owners. Incidental income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board shall determine from time to time, and need not be restricted or accumulated. Any Budget adopted shall be subject to change to cover actual expenses at any time. Any such change shall be adopted consistent with the provisions of the By-Laws. The Association shall prepare a consolidated budget for all of the Phases and treat those budgets as a single condominium budget for purposes of financial matters, including budgets, assessments, accounting, recordkeeping, insurance and similar matters pursuant to the requirements of the Condominium Act.

12. COLLECTION OF ASSESSMENTS.

- 12.1 Liability for Assessments. A Unit Owner, regardless of how title is acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, shall be liable for all Assessments and other charges coming due while that person is the Unit Owner. Except as provided in Section 12.4 below, the Unit Owner shall also be jointly and severally liable with the previous Owner for all unpaid Assessments and other charges that came due up to the time of the transfer of title. This liability is without prejudice to any right the Owner may have to recover from the previous Owner the amounts paid by the Owner. The person acquiring title shall pay the amount owed to the Association and which remains unpaid by the previous owner or owners of the unit, within thirty (30) days after transfer of title. Failure to pay the full amount when due shall entitle the Association to record a claim of lien against the Condominium Parcel and proceed in the same manner as provided herein and in the Act for the collection of unpaid Assessments. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or Association Property or by the abandonment of the Unit for which the Assessments are made or otherwise.
- 12.2 Default in Payment of Assessments for Common Expenses. Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the highest lawful rate from the date due until paid. In addition to the above stated interest, the Association shall charge an administrative late fee in an amount not to exceed the highest amount provided for in the Act, as same may be amended from time to time, on Assessments and installments thereof not paid when due. All partial payments upon account shall be applied in the manner prescribed in the Act, as same may be amended from time to time. The Association has a lien on each Condominium Parcel to secure the payment of Assessments. The lien is effective from and shall relate back to the earliest date permitted by law, but in no event later than the date of recording of this Declaration. However,

as to a First Mortgagee of record, the lien is effective as of the date of the recording of a claim of lien in the Public Records of Palm Beach County.

All claims of lien must state the description of the Condominium Parcel, the name of the record Owner, the name and address of the Association, the amount due and the due dates and must be executed and acknowledged by an officer or authorized agent of the Association. The claim of lien shall secure (whether or not stated therein) all unpaid Assessments, which are due at the time a claim of lien is recorded, as well as all regular and Special Assessments which may be levied or which may accrue subsequent to the recording of the claim of lien and prior to satisfaction of the lien or the issuance of a certificate of title, together with interest, late charges and all reasonable costs and attorney's fees incurred by the Association incident to the collection and foreclosure process. Upon payment in full, the person making the payment is entitled to a satisfaction of the lien. The Association may bring an action in its name to foreclose its lien in the same manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien. The Association is entitled to recover its reasonable attorneys' fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid assessments. As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid, the Association may declare the Assessment installments for the remainder of the fiscal year in which a claim of lien has been filed to be accelerated, as provided in Section 12.7 below.

- 12.3 Rent Payable to Association from Tenants of Delinquent Owners. If the Unit is occupied by a tenant and the Unit Owner is delinquent in paying any monetary obligation due to the Association, the Association may make a written demand that the tenant pay to the Association the subsequent rental payments and continue to make such payments until all monetary obligations of the unit owner related to the unit have been paid in full to the Association. The tenant must pay the monetary obligations to the Association until the Association releases the tenant or the tenant discontinues tenancy in the unit.
- 12.4 Appointment of Receiver to Collect Rent. If the Unit Owner remains in possession of the Unit after a foreclosure judgment has been entered, the court, in its discretion, may require the Unit Owner to pay a reasonable rental for the Unit. If the Unit is rented or leased during the pendency of the foreclosure action, the Association is entitled to the appointment of a receiver to collect the rent. The expenses of the receiver shall be paid by the party which does not prevail in the foreclosure action.
- 12.5 First Mortgagee. A First Mortgagee acquiring title to a Condominium Parcel as a result of foreclosure of its first mortgage, or by deed in lieu of

foreclosure, may not, during the period of its ownership of such parcel, whether or not such parcel is unoccupied, be excused from the payment of some or all of the Common Expenses coming due during the period of such ownership. In addition, the First Mortgagee is liable for the share of Common Expenses or Assessments or other charges imposed by the Association pertaining to such Condominium Parcel which became due prior to acquisition of title as a result of the foreclosure or the acceptance of such deed; provided, however, the First Mortgagee's liability may be limited to the maximum amount set forth in the Act, as same may be amended from time to time. If any unpaid share of Common Expenses or Assessments or other charges is extinguished by foreclosure of a superior lien or by a deed in lieu of foreclosure thereof, the unpaid share of Common Expenses or Assessments are Common Expenses collectible from all of the Unit Owners, including such acquirer, and such acquirer's successors and assigns.

- 12.6 Certificate of Unpaid Assessments. Within fifteen (15) days after request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating whether all Assessments and other moneys owed to the Association by the Unit Owner with respect to his Unit have been paid. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby. The Association or its authorized agent may charge a reasonable fee for the preparation of the Certificate.
- 12.7 Installments. Regular Assessments may be collected no more frequently than monthly nor less frequently than quarterly, in advance, at the option of the Board of Directors. Special Assessments shall be payable on such terms as may be established by the Board.
- 12.8 Acceleration of Assessment Installments Upon Default. If a Unit Owner shall be in default in the payment of an installment upon an Assessment, the Board may accelerate the remaining installments of the Assessment upon notice to the Unit Owner, and the then unpaid balance of the Assessment shall be due upon the date stated in the notice.
- 12.9 Set Off. Any funds due and payable by the Association to a Unit Owner under this Declaration of Condominium, the Articles of Incorporation or the By-Laws, or under Chapter 718, Florida Statutes, shall be subject to a right of set-off for any amounts due and owing to the Association by the Unit Owner under this Declaration, the Articles of Incorporation, the By-Laws, or Chapter 718, Florida Statutes.
- 12.10 Lien for Charges. There is created by this Declaration a common law and contractual lien to secure payment for any service which the Association provides for an individual Unit Owner or expenses which the Association incurs in regard to a Unit Owner and which is not otherwise secured by the statutory lien for Common Expenses. By way of example, but not

limitation, a Lien for Charges exists to secure repayment to the Association when it must remove or reinstall Unit Owner alterations or items of Unit Owner insurance, maintenance, repair or replacement responsibility in connection with the Association's discharge of its Common Element maintenance responsibilities, or address emergency situations, such as water extraction from a Unit. The Lien for Charges shall be of equal priority to, shall accrue interest and late fees, and shall be foreclosed in the same manner as the Common Expense lien, including the right to recover attorney's fees, costs and expenses of collection.

13. **INSURANCE.** Insurance, other than title insurance, shall be carried upon the Condominium Property and upon each Condominium parcel, subject to the following provisions:

13.1 Authority to Purchase; Named Insured. All insurance policies upon the Condominium Property shall be purchased by the Association. The named insured shall be the Association individually and as agent for the Unit Owners, without naming them, and as agent for their mortgagees. Provisions shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of Unit Owners. The Unit Owners may obtain coverage at their own expense upon their personal property and for their personal liability and living expense and shall obtain such coverage as may be required by the Act.

13.2 Coverage

(a) Casualty. All buildings and improvements upon the land shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, and all personal property included in the Common Elements shall be insured for its value, all as determined annually by the Board of Directors of the Association. Such coverage shall afford protection against:

- (1) loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and
- (2) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the building on the land, including, but not limited to vandalism, malicious mischief, windstorm and water damage.

Notwithstanding the foregoing requirement, the Association, through its Board of Directors, will have fulfilled its duty to obtain insurance coverage if it obtains and maintains such insurance coverage as may be reasonably available from time to time given market and economic

conditions, provided such coverage shall always meet the minimum level of adequate coverage and shall provide coverage for those portions of the Condominium Property as may be required by Section 718.111(11), Florida Statutes, as amended or renumbered from time to time.

- (b) Public liability in such amounts and with such coverage as shall be required by the Board of Directors of the Association, including, but not limited to hired automobile coverages, and with cross liability endorsements to cover liabilities of the Unit Owners as a group to a Unit Owner.
- (c) Worker's compensation policy to meet the requirements of law.
- (d) Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

13.3 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association and charged as a Common Expenses.

13.4 Insurance Trustee; Shares of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees, as their interest may appear, and shall provide that all proceeds covering property losses shall be paid to the Association or to a bank in Florida with trust powers as may be designated as Insurance Trustee by the Board of Directors of the Association, which trustee is referred to as the Insurance Trustee. 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 Association or the Insurance Trustee shall be to receive such proceeds as are paid and to hold the proceeds in trust for the purposes elsewhere stated in this instrument and for the benefit of the Unit Owners and their mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee:

- (a) Common Elements. Proceeds on account of damage to Common Elements: an undivided share for each Unit Owner, such share being the same as the undivided share in the Common Elements appurtenant to his Unit.
- (b) Units. Proceeds on account of damage to Units shall be held in the following undivided shares:
 - (i) When the Building is to be Restored. For the Owners of damaged Units in proportion to the cost of repairing the

damage suffered by each Unit Owner, which cost shall be determined by the Association;

(ii) When the Building is Not to be Restored. An undivided share for each Unit Owner, such share being the same as the undivided share in the Common Elements appurtenant to his Unit.

(c) Mortgagee. In the event a mortgage endorsement has been issued as to a Unit, the share of any insurance proceeds allocated to that Unit shall be held for the benefit of the Unit Owner and the mortgagee, as their interests may appear, provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions of such proceeds made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration.

13.5 Distribution of Proceeds. Proceeds of insurance policies received by the Association or the Insurance Trustee shall be distributed to or for the benefit of the beneficial Owners in the following manner:

(a) Expense of the Trust. All expenses of any Insurance Trustee shall be paid first or provisions made for such payment.

(b) 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 of such as elsewhere provided. Any proceeds which remain after defraying such costs shall be retained by the Association as Common Surplus.

(c) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damage for which proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed in the same manner such proceeds are held pursuant to Section 13.4 hereinabove.

(d) Certificate. In making distribution Unit Owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to the names of the Unit Owners, and their mortgagees and the Unit Owners and their respective shares of the distribution.

13.6 Association as Agent. The Association is hereby irrevocably appointed agent for each Unit Owner and for each owner of a mortgagee or other lien 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 releases upon the payment of claims.

14. **RECONSTRUCTION OR REPAIR AFTER CASUALTY.** This provision shall apply to the reconstruction and repair of any portion of the Condominium Property damaged by casualty.

14.1 Determination to Reconstruct or Repair. If any part of the Condominium Property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

- (a) Responsibility for Reconstruction and Allocation of Expenses. The responsibility of reconstruction and the allocation of reconstruction expenses shall be as set forth in Section 718.111(11), Florida Statutes, as same may be renumbered and/or amended from time to time.
- (b) Common Elements. If the damaged improvement is a Common Element, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the Condominium shall be terminated.
- (c) Units. If the damaged improvement is a Unit, the damaged Unit shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the Condominium shall be terminated. Any damages to the Units caused by casualty shall be reconstructed or repaired by the responsible party, as provided in Section 718.111(11), Florida Statutes, as the same may be amended from time to time.
- (d) Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Buildings, portions of which are attached hereto as exhibits; or if not, then according to plans and specifications approved in the manner required in Sections 8 or 9 of the Declaration.
- (e) Estimate of Costs. Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires.

- (f) Surplus. It shall be presumed that the first moneys 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 in the manner elsewhere stated; except, however, that the portion of a distribution to a beneficial owner that is not in excess of Assessments, including Special Assessments, paid by such Owner into the construction fund shall not be made payable to any mortgagee.

15. CONDEMNATION.

- 15.1 Deposit of Awards with Association. The taking of portions of the Condominium Property by the exercise of the power of eminent domain may, in the discretion of the Board of Directors, be deemed to be a casualty, and the awards for that taking may be deemed to be proceeds from insurance on account of the casualty and may be deposited in the manner provided for insurance proceeds. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Association; and in the event of failure to do so, in the discretion of the Board of Directors of the Association, a special charge shall be made against a defaulting Unit Owner in the amount of his award, or the amount of that award shall be set off against the sums hereafter made payable to that Owner.
- 15.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by eminent domain also shall be deemed to be a casualty.
- 15.3 Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of the awards and Special Assessments will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided with respect to the ownership and distribution of insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced and the property damaged by the taking will be made usable in the manner provided below. The proceeds of the awards and Special Assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds after a casualty, or as elsewhere specifically provided herein.

15.4 Unit Reduced but Habitable. If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable (in the sole opinion and discretion of the Board), the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:

- (a) 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 charged against the Owner of the Unit. The Association shall have the right to collect and enforce any Assessment for such costs and charges in the manner provided in accordance in Section 12 of this Declaration for the enforcement of Assessments.
- (b) Distribution of Surplus. The balance of the award in respect of the Unit, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, if a mortgagee endorsement has been submitted to the Association, the remittance being made payable jointly to the Owner and such mortgagees in the manner provided in such mortgagee endorsement.
- (c) Adjustment of Shares in Common Elements. If the floor area of the Unit is reduced by the taking, the allocated percentage in the Common Elements, the Common Expenses and the Common Surplus appurtenant to the Unit shall be reduced by multiplying such allocated percentage by a fraction, the numerator of which shall be the area in square feet of the Unit after the taking and the denominator of which shall be the area in square feet of the Unit before the taking. The shares of all Unit Owners in the Common Elements, Common Expenses and Common Surplus shall be restated as follows:
 - (i) add the total of all percentages of all Units after reduction as aforesaid (the "Remaining Percentage Balance"); and
 - (ii) divide each percentage for each Unit after reduction as aforesaid by the Remaining Percentage Balance.

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

15.5 Unit Made Uninhabitable. If the taking is of the entire Unit or so reduces the size of a Unit that it cannot be made habitable (in the sole opinion and discretion of the Board), 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 made to the Condominium:

- (a) Payment of Award. The awards shall be paid first to any Institutional First Mortgagees who have submitted a mortgagee endorsement to the Association in amounts sufficient to pay off their mortgages in connection with each Unit which is made uninhabitable; second, to the Association for any unpaid Assessments and other charges; and third, jointly to the affected Unit Owners and other mortgagees of their Units who have submitted a mortgagee endorsement to the Association.
- (b) Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in a condition allowing, to the extent possible, for use by all of the Unit Owners in the manner approved by the Board of Directors of the Association; provided that if the cost of the work therefor shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required in Section 8 hereof.
- (c) Adjustment of Shares. The shares in the Common Elements, Common Expenses and Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the shares in the Common Elements, Common Expenses and Common Surplus among the reduced number of Units. This shall be effected by restating the shares of continuing Unit Owners as follows:
 - (i) Add the total of all percentages of all Units of continuing Owners prior to this adjustment, but after any adjustments made necessary by Section 15.4(c) hereof (the "Percentage Balance"); and
 - (ii) Divide the percentage of each Unit of a continuing Owner prior to this adjustment, but after any adjustments made necessary by Section 15.4(c) hereof, by the Percentage Balance.

The result of such division for each Unit shall be the adjusted percentage for such Unit.
- (d) Assessments. If the balance of the award (after payments to the Unit Owners and such Owner's mortgagees as provided above) for the taking is not sufficient to alter the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by Assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the applicable percentage shares of those

Owners after all adjustments to such shares effected pursuant hereto by reason of the taking.

15.6 Taking of Common Elements. Awards for the taking of Common Elements shall be used to render the remaining portion of the Common Elements usable in the manner approved by the Board of Directors of the Association; provided, that if the cost of such work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner required by Section 8 hereof. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustments to these shares are effected pursuant hereto by reason of the taking or applied by the Association to other Assessments, in the discretion of the Board. If the Board determines to distribute the surplus and there is a mortgage on a Unit, the distribution shall be paid jointly to the Owner and the mortgagees of the Unit who have submitted a mortgagee endorsement to the Association.

15.7 Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements and share in the Common Expenses and Common Surplus that are effected by the taking shall be evidenced by an amendment to this Declaration of Condominium to be approved by, and executed upon the direction of, a majority of the Board.

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

16.1 Occupancy. Each Unit shall be used as a single family residence only, except as otherwise herein expressly provided. As used herein, "single family" or words of similar import shall be deemed to include up to two (2) persons who are not related by blood, marriage or adoption living together as a single housekeeping unit, or an individual and his or her spouse, adult children, and/or parents. In addition to the requirements of this Section and Section 17 of this Declaration, any change in the occupancy of the Unit shall be submitted in writing to the Board of Directors for the purpose of providing notice as to those persons who are occupying the Unit. The maximum number of persons who may reside in a Unit shall be two (2) persons per bedroom, with a bedroom defined as a room with a built in closet as provided in the original configuration of the unit.

16.2 Housing for Older Persons. This Condominium is intended as housing for older persons. Accordingly, the Members of the Association wish to operate as housing for older persons as that term is used and defined in the applicable Federal and State Fair Housing laws. Accordingly, all Condominium Parcels shall be held for occupancy by persons fifty-five (55)

years of age or older, subject to the exceptions noted below, and no permanent occupancy by persons under the age of eighteen (18) shall be permitted. The term occupancy shall have the meaning ascribed in the applicable Federal and State Fair Housing laws and the rules promulgated pursuant thereto. No occupancy shall be permitted by individuals between the ages of eighteen (18) and fifty-four (54), inclusive, unless the Condominium Parcel is also occupied by at least one person fifty-five (55) years of age or older. Persons under eighteen (18) years of age may visit and occupy a Condominium Parcel as a guest, but no Parcel may be occupied by persons under eighteen (18) years of age for more than thirty (30) days cumulatively for all such visits in a calendar year. Accordingly, the Board shall not approve any proposed transfer to persons who do not intend to hold the Condominium Parcel out for occupancy by persons fifty-five (55) years of age and older or to persons who intend to occupy the Condominium Parcel without at least one occupant over the age of fifty-five (55). The Board may permit sales where the title holders will not include at least one person fifty-five (55) years of age or older on the condition that all purchasers verify in writing in a form acceptable to the Association that they intend to hold the Condominium Parcel out for occupancy by persons fifty-five (55) years of age or older or intend to occupy the Condominium Parcel with at least one person fifty-five (55) years of age or older in occupancy with them at all times. The only exceptions where occupancy by persons between the ages of eighteen (18) and fifty-four (54), inclusive, will be permitted without at least one person fifty-five (55) years of age or older are the surviving spouse of a deceased member if the surviving spouse is between eighteen (18) years of age and fifty-four (54) years of age, inclusive, and the surviving children of a deceased member if surviving children are between eighteen (18) years of age and fifty-four (54) years of age, inclusive, if the children were residing with the deceased Condominium Parcel owner who was over 55 years of age at the time of his or her death. The foregoing exceptions will only be permitted if the resulting occupancy levels will remain at least eighty (80%) percent as provided below or as required by applicable law.

The Board of Directors shall establish policies and procedures for the purpose of assuring that the Board implements the intent of this provision in connection with the screening of sales, leases and all other transfers pursuant to this Declaration and for the purpose of assuring that all of the occupied Condominium Parcels in this Condominium operated by the Association are occupied by at least one person fifty-five (55) years of age or older as provided above. The Board of Directors shall take all reasonable steps to insure that the community's status as housing for older persons is preserved and protected. A census will be conducted as often as and in the manner required by applicable law.

16.3 Prohibition Against Use of Unit for Business Purposes. Under no circumstances may any Unit be used for any business purpose which would cause a level of noise, odor, traffic, debris or other activity inconsistent with residential use.

16.4 Guest Restrictions. A guest shall be considered any occupant who is not a Unit Owner, tenant or a permanent resident. A permanent resident is an occupant who has been approved by the Association in the manner outlined in Section 17 by the Association. Except as provided in Article 16.2 of this Declaration, there shall be no time limitation on guest occupancy provided the guest occupies the Unit with the Owner or Tenant or the guest is a member of the Owner's family, defined as their spouse, domestic partner, children, grandchildren, parents, mothers-in-law or fathers-in-law and their spouses and domestic partners. However, any guests, including family members, who occupy a Unit in excess of thirty (30) days cumulatively in any calendar year, shall be subject to screening as a Unit occupant.

Guest occupancy in the absence of the Unit Owner by persons other than members of the Unit Owner's family, as defined above, shall be limited to a total of thirty (30) days per calendar year, cumulatively, for all such guest visits. Prior to any occupancy of the Unit by any guest in the absence of the Owner, the Owner must provide written notice to the Association of the name or names of the intended guests, the anticipated date of arrival, and the anticipated date of departure. Guest occupancy by those under eighteen (18) is limited to thirty (30) cumulative days per year for all such guests. Any guest(s) who exceeds the thirty (30) day limitation of this paragraph shall be considered a tenant and screened as a tenant as provided elsewhere in this Declaration.

16.5 Pets. Except for fish in tanks of no greater than five (5) gallon, no animals, pets, or wildlife of any kind shall be kept in any unit or on any property of the condominium. Grandfathered pets on the Condominium Property may not be kept, bred or maintained for any commercial purposes, and further provided that any grandfathered household pets causing or creating a nuisance or unreasonable disturbance, including but not limited to noise or odors which disturb other residents, lunging at or biting other pets, animals or people, or urinating or defecating inside the hallways or outside of the condominium without being cleaned by the pet's owner, shall be permanently removed from the condominium property subject to these restrictions, upon three (3) days' written notice from the Board of Directors of the Association. A grandfathered pet may not be replaced upon its death or disappearance. All owners must immediately remove solid waste left by their pets and dispose of such solid waste using a sealed plastic bag. The Board of Directors may designate an area or areas where pets must be walked. Whenever any pet is outside of any unit it must be

leashed. The Board may adopt additional reasonable rules and regulations regarding pets, from time to time.

- 16.6 Use of Common Elements. The Common Elements shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units. No employee of any Unit Owner shall have use of the Association Property or the Common Elements.
- 16.7 Nuisances. No nuisances (as defined by the Board of Directors from time to time) shall be allowed on the Condominium Property, nor shall any use or practice be allowed which is a source of annoyance to residents or occupants of Units or which interferes with the peaceful possession or proper use of the Condominium Property by its residents or occupants. The Board of Directors is hereby authorized to adopt additional rules and regulations regarding noise, including, but not limited to, regulations regarding the types of activities that are permitted, the level of noise that is permitted, and the hours during the day during which certain types of activities are permitted.
- 16.8 No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this subsection. The Association has the right to cure any violation of any code or regulatory requirement of a governmental agency, whether on the Common Elements, Limited Common Elements or within the Units, which may be enforced in the manner provided for violations of Sections 7 and 8 hereof, as set forth in Section 18.2 of this Declaration.
- 16.9 Limitations on Ownership. No ownership or possessory interest in a unit may be conveyed, leased or otherwise transferred to a corporation, partnership or other entity of any kind except for trustees of trusts formed for the purpose of estate or financial planning. This provision is not applicable to the acquisition of units by the Association or Mortgagees taking title through foreclosure. Notwithstanding the provisions above regarding the acquisition of title by an entity, any entity acquiring title to a unit through the foreclosure of a mortgage or other lien or by deed in lieu of foreclosure may hold title, but any person taking occupancy of the unit while title is held by

such entity shall be subject to the restrictions in Section 10.10 applicable to leases. No person or permitted entity (other than the Association or a Mortgagee taking title by foreclosure or deed in lieu of foreclosure) may own or have any ownership interest, directly or indirectly, jointly or individually, in more than two (2) Units in the Condominiums operated by the Association including, without limitation, individually, jointly or through his or her spouse or domestic partner, or the spouse or domestic partner's companies, through his or her family members or their individual companies, or a "straw man" or otherwise or a corporate entity as a partner, officer, director, shareholder, trustee, beneficiary or employee of any partnership, corporation, company, trust or any type of entity owning any ownership interest in or to a unit. Such additional transfers shall be considered void and the Board may seek, as one of its remedies, to have the deed set aside.

The term "family members" for the purposes of this paragraph is defined as parents and step-parents, siblings, children, step-children, grandparents, cousins, aunts, uncles, and the spouses or domestic partners of any of the foregoing. If the individual is not married, then the term "spouse" shall also include a person who is the equivalent of the individual's spouse. If two individuals are living together as roommates or otherwise, the foregoing shall apply as if they were family members.

No ownership or possessory interest in a Unit may be conveyed, leased or otherwise transferred to a corporation, partnership or other entity of any kind except for trustees of a trust, where such trust was formed for the purpose of estate or financial planning. This provision is not applicable to the acquisition of Units by the Association, nor shall it apply to Mortgagees taking title to Units through foreclosure or deed in lieu of foreclosure. Notwithstanding the provisions above regarding the acquisition of title by an entity, any entity acquiring title to a Unit through the foreclosure of a mortgage or other lien or by deed in lieu of foreclosure may hold title, but any person taking occupancy of the Unit while title is held by such entity shall be subject to the restrictions imposed by Section 16.1 and 16.2 of this Declaration and the prohibitions in this section applicable to leases

- 16.10 Leases. No portion of a Unit may be rented or leased except in accordance with this Section 16.10. A Unit shall not be leased or rented without the prior written approval of the Association, which approval shall be granted or withheld in the sole judgment of the Board of Directors. The minimum lease term shall be four (4) months and no transient occupants shall be accommodated. Only entire units may be leased, no room or rooms may be leased. Subletting a unit or assigning lease or rental agreements is strictly prohibited. A unit owner shall be prohibited from leasing his or her unit more than once in a twelve (12) consecutive month period, measured from the commencement of the most recent lease of the

unit. Additionally, no Unit Owner acquiring title after the effective date of this amendment may lease or rent his or her Unit for a period of twelve (12) months from the date title is acquired. This twelve (12) month period shall run from the date of recording of any instrument transferring any ownership interest in title to the Unit, except for transfers to add members of the Unit Owner's immediate family (defined for the purposes of this paragraph as a spouse, parents, or children) as titleholders with the Unit Owner or to a trust where such transfers were undertaken for the purpose of estate planning. This provision shall not apply to heirs or beneficiaries of an Owner who take title under a will or by operation of law upon the death of the Unit Owner. Notwithstanding the foregoing, a Unit purchased in the name of any type of trust (as opposed to a Unit subsequently being transferred to a trust by a Unit Owner) is subject to the moratorium requirements. This restriction shall not apply to Units acquired by the Association while the Units are owned by the Association. If at the time of transfer of any interest in title a Unit is already leased or rented pursuant to a lease or rental agreement entered into by the previous Owner, the aforementioned twelve (12) month period during which the Unit may not be leased or rented shall commence at the expiration of the current term of the existing lease or rental agreement which may not be renewed or extended.

Only the persons approved on a lease application under Section 17 below may occupy the Unit during the term of the lease. All other persons shall be treated as guests under Section 16.1 hereinabove. A Unit shall be considered leased any time it is occupied by a tenant. The Association shall have the right to require that a substantially uniform form of lease be used. The lease shall include a provision granting the Association authority and standing to evict any lessee of a Unit Owner who is in breach or violation of this Declaration or the rules and regulations of the Association. In the event the Association approves a rental or lease, such approval of a lease or rental shall not release the Unit Owner from any obligation under this Declaration, and the tenant shall have the right to use the facilities and Common Elements to the exclusion of the Unit Owner unless the tenant waives such rights in writing. Regardless of whether or not expressed in the applicable lease, if any, all Unit Owners shall be jointly and severally liable with their tenants to the Association for any amount which is required by the Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant or for the acts and omissions of the tenant(s) or occupant(s) (whether or not subject to a lease) which constitute a violation of, or non-compliance with, the provisions of this Declaration and of any and all rules and regulations of the Association. All tenants shall comply with and be subject to the provisions of this Declaration, the By-Laws, and the Act and the provisions of same shall be deemed expressly incorporated into any lease of a Unit. Subleases are prohibited.

When a Unit is leased, a tenant shall have all use rights in Association Property and those Common Elements otherwise readily available for use generally by Unit Owners, and the Owner of the leased Unit shall not have such rights, except as a guest, unless such rights are waived in writing by the tenant. Nothing herein shall interfere with the access rights of the Unit Owner as a landlord pursuant to Chapter 83, Florida Statutes. Dual usage by a Unit Owner and a tenant of Association Property and Common Elements is prohibited.

All leases shall include a provision (or be deemed to include a provision) which grants the Association an assignment of all rents payable to the Unit owner / landlord under the terms of any lease agreement. Such assignment shall entitle the Association to receive rental fees directly from tenants of units in arrears in the payment of regular or Special Assessments or any other monetary obligation due to the Association. The Association may begin to collect such rents upon delivery of written notice by the Association to the Tenant with a copy to the Unit owner / landlord. Such rental fees may be used to pay any special or annual assessments as well as interest, late charges and attorneys' fees, if any. The provisions of this Section 16.10 shall not apply to Units owned by the Association.

- 16.11 Parking. The following guidelines shall apply with regard to permitted and prohibited vehicles on the Condominium Property (including, without limitation, any assigned or unassigned parking spaces):
- (a) ONLY passenger automobiles, motorcycles, scooters, mopeds, station wagons, sport utility vehicles, passenger vans and pick-up trucks up to one-half (1/2) ton capacity may park on the Condominium Property.
 - (b) Without limiting the general provisions set forth above, the following types of vehicles WILL NOT be permitted to park on the Condominium Property, except as provided by sub-paragraph (c) below:
 - (i) Commercial vehicles of any type, including, without limitation, any vehicle, including permitted vehicles, showing or displaying any commercial, charitable or institutional (e.g., church or school) markings, signs, displays or otherwise indicating a commercial or other non-personal use or a vehicle used for commercial purposes;
 - (ii) Vans, other than passenger vans (passenger vans must have windows on all body panels and be designed and used primarily to transport passengers, not cargo);

- (iii) Limousines or "stretch" limousines;
- (iv) Trucks with over one-half (1/2) ton capacity and any trucks with scaffolding, ladders, equipment which is visible from the exterior and commercial lettering on the vehicle
- (v) Agricultural vehicles;
- (vi) Dune buggies;
- (vii) Any trailer or other device transportable by vehicular towing;
- (viii) Semis, tractors or tractor trailers;
- (ix) Buses;
- (x) Travel trailers;
- (xi) Boats and boat trailers with or without boats
- (xii) Vehicles which are not fully mechanically operable or able to operate including but not limited to vehicles on blocks or with uninflated tires.
- (xiii) Motorcycle delivery wagons;
- (xiv) Recreational vehicles;
- (xv) Mobile homes or mobile houses;
- (xvi) Truck mounted campers attached or detached from the truck chassis;
- (xvii) Motor homes or motor houses;
- (xviii) Motor vehicles not having any bodies whatever, or incomplete buggies;
- (xix) Swamp buggies;
- (xx) Passenger automobiles that have been converted for racing; and
- (xxi) Motor vehicles which leak oil and/or other fluids.

(xxii) Golf carts

- (c) While engaged in making deliveries or service calls or if the vehicle is used by an individual who is a health care worker or health care aide for a resident, or if being utilized by Association employees, trucks and other commercial vehicles may be parked in designated areas, but not overnight.
- (d) All permitted vehicles parking on the property overnight, including but not limited to residents' and guests' vehicles, must be registered with the Association and display the appropriate parking permit. Residents' vehicles must have the parking permit affixed to the vehicle in the location and in the manner required by the Board of Directors from time to time. Guests and visitor's vehicles must display a visitor parking pass in the manner outlined by the Rules and Regulations, as amended from time to time.
- (e) All vehicles parked on the property contrary to the provisions contained herein shall be subject to being towed in accordance with Section 715.07, Florida Statutes, as amended or renumbered from time to time, at the expense of the owner of the vehicle. Towing shall not be the exclusive remedy of the Association.
- (f) Notwithstanding anything herein to the contrary, but subject to subparagraph (c) above, no vehicle or other device shall be permitted to park on Condominium Property for other than delivery or service call purposes, if its dimensions exceed the dimensions of the parking space assigned or designated. The Board may, from time to time, designate alternate spaces or parking locations for vehicles which exceed the dimensions of the parking spaced currently assigned or designated.
- (g) Owners must park in their assigned spaces and may not park in the assigned parking spaces of other unit owners without their consent.
- (h) Non-assigned parking spaces, wherever located on the Common Elements, shall not be used as permanent parking spaces by anyone, including Unit Owners. The Board may adopt and amend additional rules and regulations regarding parking on the Condominium Property, including, but not limited to, issuance and display of decals to identify residents' or guests' vehicles and to regulate parking by Unit Owners, guests, licensees, invitees, employees, agents or contractors.

16.12 Floor Coverings. In all second floor Units, all rooms and hallways other than kitchens and bathrooms shall be carpeted with a reasonably good grade of

carpeting and padding, except hard flooring and tile without carpeting may be installed on adequate sound-proofing material only after receiving the prior written consent of the Board. The amounts or levels of soundproofing required by the Association may be determined by the Board of Directors in a separately published rule, from time to time.

16.13 Signs. No signs of any kind may be displayed anywhere on the Common Elements or Association Property or in a location visible from the Common Elements or Association Property (including in or on any vehicle parked on the common elements), except as expressly authorized in the Rules and Regulations.

16.14 Terraces. No balcony or entryway to a Unit shall be permanently enclosed. The appearance of any terrace shall not be altered in any manner whatsoever without the prior written consent of the Board of Directors.

16.15 Bicycles, Scooters and Mopeds. Bicycles may be stored within units or parked in those areas as the Board of Directors may, from time to time, specifically designate for such purposes in separately published rules and regulations. However all gasoline powered vehicles, including but not limited to scooters, mopeds or modified bicycles must remain parked outside in areas designated for such vehicles which the Board may determine from time to time.

17. CONVEYANCES, SALES, AND TRANSFERS. In order to provide for congenial occupancy of the Condominium and Association Property and for the protection of the values of the Units, the use of the Condominium Property shall be restricted to and shall be in accordance with the following provisions:

17.1 Transfers Subject To Approval. The following transfers shall be subject to prior written approval of the Board of Directors and any transfer undertaken without prior written approval of the Board of Directors shall be void:

- (a) All sales of units except judicial sales conducted pursuant to a judgment of foreclosure held by an Institutional First Mortgagee encumbering a Unit or public sales conducted by the Palm Beach County Tax Collector resulting from the failure to pay real property taxes.
- (b) All transfers by lease.
- (c) All transfers by gift.
- (d) All transfers by devise or inheritance.

- (e) Any other transfer of title to or possession of a Unit, including but not limited to transfers from mortgages who have obtained title through foreclosure, deed in lieu of foreclosure, or otherwise.
- (f) All transfers subject to approval shall require, as a condition of approval, the payment to the Association of a transfer fee not to exceed the maximum amount permitted by the Condominium Act, as same may be amended from time to time.
- (g) All transfers by lease may be conditioned upon the posting of a security deposit not to exceed the maximum amount permitted by the Condominium Act, as same may be amended from time to time.

17.2 Notice to Association. Prior to approving any transfer subject to approval hereunder, the Association shall be entitled to written notice of the transferor's intent to make the transfer with a copy of the documentation evidencing the intended transfer, including, but not limited to, a copy of the contract for sale in the case of a sale, a copy of the Letters of Administration for the Personal Representative of a deceased Owner's estate and such other documentation from the Probate Court file as the Board may reasonably require in the event of a transfer by devise, a copy of the lease in the case of a lease, and a copy of any other documentation pertaining to a proposed transfer subject to approval hereunder which the Association may reasonably require, completed applications on forms prescribed by the Association, a personal interview with the proposed transferee(s) and any other intended occupants of the unit, and such other and further information about the intended transferees or occupants as the Association may reasonably require. The Board of Directors, or an appointed Screening Committee, may conduct background investigations on all prospective purchasers, tenants, and unit occupants, which may include but is not limited to criminal background, financial background, and credit history. These background checks may be conducted by third party credit / background investigative and reporting agencies. New occupants who move into the Condominium subsequent to the transfer of title or the commencement of the lease are also subject to screening and background investigation pursuant to this section.

17.3 Association's Election. Within thirty (30) days of receipt of the last of the information required pursuant to Section 17.2 above, the Association must either approve or disapprove the transfer. Failure

on the part of the Association to respond within said thirty (30) day period shall constitute automatic approval for the proposed transfer.

- (a) Approval. In the event the Association approves any transfer subject to approval hereunder, the Association shall deliver to the transferor or the transferor's designee an executed certificate of approval, approving the transfer, executed by an authorized representative of the Association.
- (b) Disapproval of Transfer of Title. In the event the Board of Directors disapproves a proposed sale, unless good cause exists, as defined below, the Association must, within thirty (30) days of receipt of the last of the information provided pursuant to Section 17.2 hereof, provide the owner with an executed contract from the Association or another purchaser acceptable to the Association, which contract must provide for the purchase of the Unit on the same terms as were set forth in the original proposed contract for sale, which contract must provide for a closing date within sixty (60) days from the date it is delivered to the owner by the Association. If the conveyance or transfer was a gift, devise or inheritance, unless good cause exists, as defined below, the purchase price shall be determined by an appraiser selected by and at the expense of the substitute purchaser. If the Unit Owner does not agree with the appraisal, the Owner may select and pay for another appraisal and the purchase price shall be the average of the two appraisals. If the Association does not respond to the application within thirty (30) days, as set forth above, or the substitute purchaser provided by the Association does not close within thirty (30) days, as set forth above, the original transaction shall be deemed approved and the Unit Owner may proceed to closing and shall be entitled to a Certificate of Approval as described in Paragraph (a) of this Section 17.3.

If good cause exists for the Association to disapprove a proposed sale, conveyance or transfer by gift, devise or inheritance, the Association shall not be obligated to purchase or provide a substitute purchaser for the Unit. Good cause shall be defined to include the following:

- (1) The applicant fails to qualify for membership in the Association, including, but not limited to, those applicants who fail to qualify for membership because of the restrictions on occupancy or ownership set forth in this Declaration; or

- (2) The person seeking approval (which shall include all proposed occupants) has been convicted at any time of a felony involving violence to persons or a felony where the victim was a minor or has been convicted of any other felony within the ten (10) years preceding the date of application; or
- (3) The applicant takes possession of the Unit prior to approval by the Association as provided for herein; or
- (4) 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 this condominium or other condominiums operated by the Association, as a lessee, guest, owner or occupant of a Unit; or
- (5) The applicant fails to comply with the requirements of Section 17.2 hereof.
- (6) A transfer of title or occupancy will not be approved if such transfer or occupancy will violate any of the provisions found in this Declaration.

17.4 Leasing. The Association must approve or disapprove a lease within thirty (30) days of receipt of the last of the information provided pursuant to Section 17.2 hereof. The Association may disapprove a lease on any grounds, including, but not limited to, any of the provisions defining good cause for transfers of title which might be applicable and in accordance with Section 17.3 set forth above.

17.5 Mortgage Approval and Subordination. All liens against a Unit, other than a first mortgage recorded before the Association's claim of lien, shall be subordinate and inferior to the Association's lien for Assessments, regardless of the date of recordation of the Association's claim of lien, except to the extent otherwise required by law.

18. RECREATION ASSOCIATION.

18.1 Membership. This Association shall be a member of the Palm Greens at Villa Del Ray Recreation Condominium, Association, Inc. ("Recreation Association") and through its elected Association representatives participate in the operation of the Recreation Association.

18.2 Recreation Area. The Recreation Association shall exercise the powers of operation, supervision, control and management of the recreation areas and such fees required to be paid for maintenance of the recreation area shall become a Common Expense of the Association.

18.3 Membership in the Recreation Association.

- A. The Recreation Association shall have all of the powers and duties granted to or imposed upon it by the By-Laws of the Recreation Association which are not in conflict with the Declaration of Condominium for the Association, including but not limited to, the power to assess the subassociations for reasonable expenses for the operation, repair, maintenance, taxes and insurance and any other expenses in connection with its duties.
- B. In the event a special assessment or capital expenditure in excess of Fifty Dollars (\$50.00) per unit is made or proposed by the Recreation Association, then this Association will decide whether to approve or disapprove the special assessment or capital expenditure by vote of the Unit Owners. The approval required is of a majority of all of the Unit Owners of this Association. The vote may be taken at a meeting of the Unit Owners by those voting in person or by limited proxy, or by written consent in lieu of a meeting as long as at least a majority of the members responds.
- C. Members in the Recreation Association shall consist of the Association responsible for the operation this condominium and all other subassociations responsible or to be responsible for other condominiums built on nearby property, as was originally determined by the Developer.
- D. The affairs of the Recreation Association shall be directed by its Board of Directors in the number and designate in the manner provide for in the by-laws of the Recreation Association.
- E. The Recreation Association shall exercise the power of operation, supervision, control and management of the recreation facilities, amenities and areas which were deeded to it by the Developer.

19. **COMPLIANCE AND DEFAULT.** Each Unit Owner and every occupant, lessee, guest, agent, employee or contractor of a Unit Owner and the Association shall be governed by and shall comply with the terms of this Declaration of Condominium 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 Unit Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by the Act:

- 19.1 Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement, whether to the Common Elements, Association Property, the Unit or the Unit Owner's personal property, or to the personal property of the Association or other Unit Owners, including, but not limited to, repair after casualty under Section 14 hereinabove, made necessary by his or her violation of any portion of this Declaration or by his or her negligence or intentional misconduct or by that of any member of his family or his or her guests, agents, employees or contractors, but only to the extent such expense is not met by the proceeds of insurance actually collected by the Association. Any such expense advanced by the Association, together with interest, costs and attorneys' fees, shall be secured by a lien against the Unit enforceable in the same manner as an Assessment under Article 12 hereof.
- 19.2 Compliance. In the event a Unit Owner or occupant fails to comply with such Unit Owner's obligations under Sections 7, 9, 13 and 16 hereof or fails to observe and comply with any other provision of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to sue in a court of law for damages, and levy a special charge against the Unit Owner and the Unit for the sums necessary to do whatever work is required to put the Unit Owner or Unit in compliance. Such charge, together with interest, costs and attorneys' fees, shall be secured by a lien against the Condominium Parcel, enforceable in the same manner as Assessments levied under Article 12 hereof.
- 19.3 Fines. In the event a Unit Owner or anyone for whom Unit Owner is responsible fails to comply with a provision of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to impose a fine against the Unit Owner and the Unit. The amount of any fine shall be determined by the Board of Directors of the Association, but in any event shall not exceed any maximum amount permitted by the Condominium Act, as such Act may be amended from time to time.
- 19.4 Suspension of Use Rights. In addition to all other remedies provided hereunder, the Association shall have the right, pursuant to the Requirements of the Condominium Act to suspend the rights of the Unit Owner, his or her tenants, guests, licensees or invitees, to use any portion of the Common Elements or Association Property or other facilities during any

period of time during which the Unit Owner is delinquent in the payment of assessments or any other financial obligation to the Association or in the event a Unit Owner or anyone for whom a Unit Owner is responsible fails to comply with a provision of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required.

- 19.5 Suspension of Voting Rights. In addition to the remedies provided in Section 12 hereof and by applicable law, the Association may suspend the voting rights of any Owner who is delinquent more than ninety (90) days in the payment of any monetary obligation to the Association. Any Owner whose voting rights are suspended does not count towards a quorum and the quorum is reduced to exclude such Owner.
- 19.6 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Act, this Declaration, the By-Laws, the Articles of Incorporation of the Association, or the rules and regulations, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees).
- 19.7 No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, this Declaration, the By-Laws, the Articles of Incorporation of the Association, or the rules and regulations, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.
- 19.8 Election of Remedies. All rights, remedies and privileges granted to the Association or a Unit Owner pursuant to 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 neither be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges as may be granted by the Condominium documents.
20. TERMINATION. The Condominium may be terminated in the following manner in addition to any manner provided by the Condominium Act.
- 20.1 Destruction. If it is determined in the manner elsewhere provided that the Building shall not be reconstructed because of substantial damage, the Condominium plan of ownership will be terminated without agreement.
- 20.2 Agreement. The Condominium may be terminated at any time by the approval in writing of all record Owners of Units and all record Owners of

mortgages on Units. If the proposed termination is submitted to a meeting of the members of the Association, the notice of such meeting shall give notice of the proposed termination, and if the approval of the Owners of Units to which more than seventy-five percent (75%) of the Common Elements are appurtenant, and of the record Owners of all mortgages upon the Units, are obtained in writing not later than thirty (30) days from the date of such meeting, then the approving owners shall have an option to buy all of the Units of the other Owners for the period ending on the sixtieth (60th) day from the date of such meeting. Such approvals shall be irrevocable until the expiration of the option, and if the option is exercised, the approvals shall be irrevocable. The option shall be upon the following terms:

- (a) Exercise of Option. The option shall be exercised by delivery or mailing by certified mail to each of the record Owners of the Units to be purchased an agreement to purchase signed by the record Owners of the Units that will participate in the purchase. The agreement shall indicate which Units will be purchased by each participating Owner and shall require the purchase of all Units owned by Owners not approving the termination. The agreement shall effect a separate contract between each seller and his purchaser.
- (b) Price. The sale price for each Unit shall be the fair market value determined by agreement between the seller and the purchaser within thirty (30) days from the delivery or mailing of such agreement and in the absence of agreement as to price, it shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association, who shall base their determination upon the average of their appraisals of the Units. A 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 paid by the purchasers.
- (c) Payment. The purchase price shall be paid in cash.
- (d) Closing. The sale shall be closed within ten (10) days following the determination of the sale price.

20.3 Certificate. The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its President and Secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the Public Records of Palm Beach County, Florida.

20.4 Share of Owners After Termination. After termination of the Condominium, Unit Owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares that shall be the same as the undivided shares in the Common Elements appurtenant to the Owner's Units prior to the termination.

20.5 Amendment. This section concerning termination cannot be amended without consent of all Unit Owners and all record Owners of mortgages upon the Units.

21. **RESTRICTIONS AND EASEMENTS.** The real property submitted to Condominium ownership hereby is subject to conditions, limitations, restrictions, dedications, reservations of record, taxes, applicable zoning ordinances now existing or which may hereafter exist, easements for Utility Service for the United States Post Office authorities, and any right of the United States of America, State of Florida, or any governmental agency as to any submerged lands and as to any lands lying below the natural, ordinary high water line of the surrounding bodies of water, easements for ingress and egress for pedestrian and vehicular purposes, easements for Utility Service and drainage now existing or hereafter granted by the Association for the benefit of such persons as the Association designates.

An easement, whether heretofore or hereafter created under and pursuant to this Declaration shall constitute a covenant running with the Land of the Condominium, and, notwithstanding any other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonably interfere with the proper and intended use and purpose and shall survive the termination of the Condominium. The Unit Owners of this Condominium do hereby designate the Association as their lawful attorney-in-fact to execute any and all instruments on their behalf for the purposes of creating all such easements as are contemplated by the provisions hereof.

22. **COVENANT RUNNING WITH THE LAND.** All provisions of this Declaration, the Articles, By-Laws and applicable rules and regulations of the Association shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Association, the Unit Owners, and their respective heirs, personal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future Unit Owners and occupants of Units shall be subject to and shall comply with the provisions of this Declaration and such Articles, By-Laws and applicable rules and regulations, as they may be amended from time to time. The acceptance of a deed of conveyance, or the entering into of a lease, or the entering into occupancy of any Unit, shall constitute an adoption and ratification of the provisions of this

Declaration, and the Articles, By-Laws and applicable rules and regulations of the Association, as they may be amended from time to time, including, but not limited to, a ratification of any appointments of attorneys-in-fact contained herein.

23. ADDITIONAL PROVISIONS.

- 23.1 Notices. All notices to the Association required or desired hereunder or under the By-Laws of the Association shall be sent by first class mail or hand delivery to the Association at its office at the Condominium, or to such other address as the Association may hereafter designate from time to time by notice in writing to all Unit Owners, unless another manner of delivery is specifically required by the Condominium Act or this Declaration or the By-Laws. Except as provided specifically in the Act, all notices to any Unit Owner shall be sent by first class mail to the Condominium address of such Unit Owner, or such other address as may have been designated by him from time to time, in writing, to the Association. All notices to mortgagees of Units shall be sent by first class mail to their respective addresses, or such other address as may be designated by them from time to time, in writing to the Association. All notices shall be deemed to have been given when mailed in a postage prepaid sealed wrapper, except notices of a change of address, which shall be deemed to have been given when received, or five (5) business days after proper mailing, whichever shall first occur.
- 23.2 Exhibits. There is hereby incorporated in this Declaration all materials contained in the Exhibits annexed hereto, except that as to such Exhibits, any conflicting provisions set forth therein as to their amendment, modification, enforcement and other matters shall control over those hereof.
- 23.3 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 wherever the signature of the Secretary of the Association is required hereunder, the signature of a Treasurer may be substituted therefor, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities.
- 23.4 Governing Law. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the Exhibits annexed hereto or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida, without regard to its choice of law principles.
- 23.5 Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration, the Exhibits annexed hereto, or applicable rules

and regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

- 23.6 Waiver. No provisions contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same, without regard to the number of violations or breaches which may occur.
- 23.7 Ratification. Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each occupant of a Unit, by reason of his occupancy, shall be deemed to have acknowledged and agreed that all of the provisions of this Declaration, and the Articles and By-Laws of the Association, and applicable rules and regulations, are fair and reasonable in all material respects.
- 23.8 Gender; Plurality. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.
- 23.9 Captions. The captions herein and in the Exhibits annexed hereto are inserted only as a matter of convenience and for ease of reference and in no way define or limit the scope of the particular document or any provision thereof.