



**AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
FOR
THE LAKES AT THE SAVANNAHS CONDOMINIUM**

DECEMBER 2005

TABLE OF CONTENTS

Section		Page
1.	Introduction and Submission	1
2.	Definitions	1
3.	Description of Condominium	4
4.	Restraint upon Separation and Partition of Common Elements	6
5.	Ownership of Common Elements and Common Surplus and Share of Common Expense; Voting Rights	7
6.	Amendments	7
7.	Maintenance and Repairs	8
8.	Additions, Alterations or Improvements by the Association	8
9.	Additions, Alterations or Improvements by Unit Owner	9
10.	Changes in Developer Owned Units	9
11.	Operation of the Condominium by the Association; Powers and Duties	10
12.	Determination of Common Expenses and Fixing of Assessments Therefore	13
13.	Collection of Assessments	14
14.	Insurance	16
15.	Reconstruction or Repair after Fire or Other Casualty	19
16.	Condemnation	22
17.	Occupancy and Use Restrictions	24
18.	Lease, Conveyance, Mortgage, Maintenance of Community Interests	27
19.	Compliance and Default	31
20.	Termination of Condominium	32
21.	Additional Rights of Mortgagees and Others	32
22.	Covenant Running with the Land	32
23.	Compliance with Zoning	33
24.	Disclaimer of Warranties	33
25.	Arbitration of Claims	33
26.	Additional Provisions	35
27.	South Florida Water Management Provisions	36
	Exhibits: A-1 Legal Description A-2 Survey B-1 Plot Plan B-2 Floor Plan – 3 Unit Building B-3 Floor Plan – 4 Unit Building B-4 Floor Plan – 6 Unit Building C-1 Ownership and Shares C-2 Identification of Units D Articles of Incorporation E By-Laws F Joinder of Condominium Association G South Florida Water Management Permit	



**AMENDED AND RESTATED
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FOR
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HST DEVELOPMENT COMPANY, a Florida corporation ("The Developer"), on behalf of itself and its successors, grantees and assigns, hereby declares:

1. INTRODUCTION AND SUBMISSION

1.1 The Land. The Developer owns the fee simple title to certain land located in St. Lucie County, Florida, as more particularly described as follows (hereinafter called the "Land"):

See Legal Description on **Exhibit A-1** and Survey on **Exhibit A-2** attached hereto and made a part hereof.

1.2 Submission Statement. The Developer hereby submits the Land and all improvements erected or to be erected thereon and all other property, real, personal or mixed, now or hereafter situated on or within the Land, together with all rights and easements appurtenant thereto but excluding all public or private (e.g. cable television) utility installations therein or thereon to the condominium form of Ownership and use in the manner provided for in Chapter 718 Florida Statutes, the Florida Condominium Act ("Condominium Act") as it exists on the date hereof and as it may be hereafter amended. Without limiting any of the foregoing, no property, real, personal or mixed, not located within or upon the Land as aforesaid shall, for any purposes, be deemed part of the Condominium or be subject to the jurisdiction of the Association, the operation and effect of the Florida Condominium Act or any rules or regulations promulgated pursuant thereto.

1.3. The name by which this condominium is to be identified is **THE LAKES AT THE SAVANNAHS 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 it exists on the date hereof and as may be hereafter amended.

2.2 "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Association, hereinafter defined as amended from time to time.

2.3 "Assessment(s)" means a share of the funds required for the payment of Common Expenses, hereinafter defined, which from time to time is/are assessed against the Unit Owner(s), hereinafter defined.

2.4 "Association" or "Condominium Association" means **THE LAKES AT THE SAVANNAHS CONDOMINIUM ASSOCIATION, INC.**, a Florida corporation not-for-profit, the sole entity responsible for the operation of the Condominium.

2.5 "Association Property" means the property, real and personal, in which title or ownership is vested in the Association for the use and benefit of its members.

2.5 "Building" means structures in which Units and Common Elements are located on the Property.

2.7 "By-Laws" mean the By-laws of the Association, as amended from time to time.

2.8 "Common Elements" means and includes:

(a) The portions of the Condominium Property which are not included within the Units, including the "Recreation Area", consisting of a Clubhouse, pool and tennis courts.

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

(c) An easement of support in every portion of a Unit which contributes to the support of the Units.

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

(e) Any other parts of the Condominium Property designated as Common Elements in this Declaration.

The Association has the right of access to each Unit during reasonable hours, when necessary for maintenance, repair or replacement of any Common Elements or any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.

2.9 "Common Expense(s)" means all expenses incurred by the Association, and for which the Unit Owners are liable to the Association, which shall include the expense of administration, insurance, maintenance, operation, repair, replacement, protection and betterment of the Common Elements. For the purposes of this Declaration, Common Expenses shall also include all reserves required by the Condominium Act or otherwise established by the Association, regardless of when reserve funds are expended, and any other expenses designated as a "Common Expense" by the Condominium Act, this Declaration, the Articles of Incorporation, or the By-laws. Common Expenses shall not include any separate obligations of individual Unit Owners.

2.10 "Common Surplus" means the excess of all receipts of the Association collected on behalf of the Association, including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements, over the amount of Common Expenses.

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

2.12 "Condominium Property" means the Land described in Section 1.1 hereof, together with easements and rights appurtenant thereto, and all tangible and intangible property intended for use in connection with the Condominium.

2.13 "County" means the County of St. Lucie, State of Florida.

2.14 "Declaration" or "Declaration of Condominium" means this instrument, as amended from time to time.

2.15 "Developer" means **HST DEVELOPMENT COMPANY**, a Florida corporation, its successors and such of its assigns as to which its rights hereunder are assigned by written instrument recorded in the Public Records of the County. Such assignment may be made on an exclusive or non-exclusive basis and may be an assignment of all or only portions of the rights of Developer hereunder; provided, however, that no such assignment shall make any assignee the "Developer" for purposes hereof unless such assignment is an assignment of all of Developer's rights hereunder and is exclusive, except insofar as any previously assigned rights, provided however, that any assignee of the Developer's rights cannot retain control of the Association after a majority of the Units have been sold unless it receives an assignment of Developer's rights and obligations.

2.16 "Improvement(s)" mean all structures, betterments and artificial changes to the natural environment located on the Condominium Property, including, but not limited to, the Units.

2.17 "Institutional Mortgagee" means a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, an agency of the United States Government, mortgage banker, the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") or any other lender generally recognized as an institutional lender, or the Developer, holding a first or second mortgage on a Unit or Units.

2.18 "Limited Common Elements" means those portions of the Common Elements that are reserved for the use of a certain Unit or Units to the exclusion of other Units. Any fixture or equipment serving a Unit or Units exclusively, but located outside of a Unit (such as air conditioning equipment or ducts) shall be Limited Common Elements of such Unit(s). The maintenance of any such equipment or fixture shall be the sole responsibility of the respective Unit Owner(s) except as otherwise expressly provided in this Declaration. In the event of any reasonable doubt or dispute as to whether any portion of the Common Elements constitutes a Limited Common Element, or in the event of any question as to which Unit(s) are served thereby, a decision shall be made by a majority vote of the Board of Directors of the Association which decision shall be binding and conclusive when so made.

2.19 "Recreation Area" means the Club House, pool, tennis courts, putting green to be constructed on the Land and to be part of the Common Elements as set forth on **Exhibit B-1**.

2.20 "Unit" means a part of the Condominium Property which is subject to exclusive ownership.

2.21 "Unit Owner" or "Owner of a Unit" or "Owner" means the Owner of a Condominium Parcel.

3. DESCRIPTION OF CONDOMINIUM

3.1 Identification of Units. The Land will have constructed thereon the fifty four (54) residential buildings as follows:

Fifteen (15) 3 Unit Buildings; Seven(7) 4 Unit Buildings; and Thirty Two (32) 6 Unit Buildings; for a total of 265 Units. Each such Unit is identified by a separate numerical or alpha-numerical designation. The plot plan for each Building is set forth on **Exhibit B-1** attached hereto. A floor plan and elevation for each unit located in a 3 Unit Building is attached hereto as **Composite Exhibit B-2**. A floor plan and elevation for each 4 Unit Building is attached hereto as **Composite Exhibit B-3**. A floor plan and elevation for each 6 Unit Building is attached hereto as **Composite Exhibit B-4**. There shall pass with a Unit as appurtenances thereto (a) an undivided share in the Common Elements and Common Surplus; (b) the exclusive right to use such portion of the Common Elements as may be provided in this Declaration; (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; and (e) other appurtenances as may be provided by this Declaration or the Act.

3.2 Unit Boundaries. Each Unit shall include that part of the Building containing the Unit that lies within the following boundaries:

(a) Upper and Lower Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the perimetrical boundaries:

(i) Upper Boundaries. The horizontal plane of the finished and undecorated lower surface of the ceilings of the Units extended to meet the perimeter boundaries.

(ii) Lower Boundaries. The horizontal plane of the finished and undecorated and uncovered upper surface of the floor of the Units extended to meet the perimeter boundaries.

(b) Perimeter Boundaries. The perimeter boundaries of the Unit shall be the vertical planes of the finished and undecorated and uncovered interior surfaces of the walls bounding the Unit extended to their planar intersections with each other and with the upper and lower boundaries.

(c) Apertures. Where there are apertures in any boundary, including, but not limited to, windows and doors, such boundaries shall be extended to include the windows, doors and other fixture located in such apertures, including all interior and exterior surfaces, frameworks, casings, caulking and weather stripping thereof provided, however, that the exteriors of entry doors facing interior Common Elements (if any) shall not be included in the boundaries of the Unit and shall therefore be Common Elements.

(d) Exceptions. In cases not specifically covered above, and/or in any case of conflict or ambiguity, the Identification and Plot Plan of the Units set forth in **Exhibit B-1** hereto shall control in determining the boundaries of a Unit, except

that the provisions of Section 3.2(c) above shall control when in conflict therewith.

3.3 Limited Common Elements. Each Unit may have, to the extent applicable and subject to the provisions of this Declaration, as Limited Common Elements appurtenant thereto, vesting in the Owner of each such Unit the exclusive right to use such Limited Common Elements.

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

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

(b) Utility and Other Services: Drainage. Easements are reserved under, through and over the Condominium Property as may be required, from time to time, for utility, cable television, communications and security systems, and other services and drainage in order to serve the Condominium. A Unit Owner shall do nothing within or outside his Unit that interferes with or impairs, or may interfere with or impair, the provision of such utility, cable television, communications and security systems, or other service or drainage facilities or the use of these easements. The Board of Directors of the Association or its designee shall have a right of access to each Unit to maintain, repair, or replace the pipes, wires, ducts, vents, cables, conduits and other utilities, cable television, communications and similar systems, hot water heaters, service and drainage facilities, and Common Elements contained in the Unit or elsewhere in the Condominium Property, and to remove any Improvements interfering with or impairing such facilities or easements herein reserved. The Association has the irrevocable right of access to each Unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any Common Elements or any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.

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

(d) Ingress and Egress. A non-exclusive easement in favor of each Unit Owner and resident, their guests and invitees, shall exist for pedestrian traffic over, through and across sidewalks, streets, paths, walks, and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements as, from time to time, may be paved and intended for such purposes. None of the easements specified in this Subsection (d) shall be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering such easements (other than those on Condominium Parcels) automatically shall be subordinate to the rights of Unit Owners and the Association with respect to such easements.

(e) Construction: Maintenance. The Developer (including its designees, contractors, successors and assigns) shall have the right, in its (and their) sole discretion from time to time, to enter the Condominium Property and take all other action necessary or convenient for the purpose of completing the construction thereof, or any part thereof, or any Improvements or Units located or to be located thereon, and for repair, replacement and maintenance purposes or where the Developer, in its sole discretion, determines that it is required or desires to so do.

(f) Sales Activity. For as long as Developer owns any unsold Units, the Developer, its designees, successors, and assigns, shall have the right to use the Land, Common Elements, and unsold Units for the sale of Units including but not limited to the construction of a sales center and to show the Land and all Improvements thereon to prospective purchasers and to erect on the Condominium Property signs and other promotional material to advertise Units (or the other aforesaid residential Units) for sale or lease.

(g) Lateral and Subjacent Support: Access. All Improvements connected or adjacent to the Condominium Property shall have easements of lateral and subjacent support. Unit Owner(s) shall have an easement of reasonable access to the Condominium Property for the purpose of the maintenance, repair, and replacement of the Improvements benefited by the easement granted in this subsection, as well as utility and other installations serving same; provided, however, that any activities performed pursuant to this easement shall be performed so as to not (i) unreasonably interfere with the day-to-day operations of the Condominium Property; (ii) impair the structural or aesthetic integrity of the Condominium Property; or (iii) leave the Condominium Property in a condition, after the completion of such activities, other than that which existed prior to their commencement.

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

3.5 Parking Spaces. Unit owners shall park their vehicles in their respective garage and driveways and such other designated parking areas as designated by the Association in the Rules and Regulations.

4. RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS. The undivided share in the Common Elements including the Recreation Area 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 therefrom 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 COMMON ELEMENTS AND COMMON SURPLUS AND SHARE OF COMMON EXPENSES; VOTING RIGHTS.

5.1 Ownership and Shares. The undivided interest in the Common Elements and Common Surplus, and the percentage share of the Common Expenses, appurtenant to each Unit, is set forth in **Exhibit C-1** attached hereto and made a part hereof. The identification of each unit is set forth in **Exhibit C-2** attached hereto and made a part hereof.

5.2 Voting. Each Unit Owner shall be a member of the Association. Each Unit shall be entitled to one (1) vote to be cast by its Owner in accordance with the provisions of the By-Laws and Article 5 of the Articles of Incorporation of the Association.

6. AMENDMENTS. Except as elsewhere provided herein, amendments 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 the proposed amendment is to be considered. An amendment may be proposed either by a majority of the Board of Directors of the Association or by not less than a majority of the members of the Association. Except as elsewhere provided, approvals of proposed amendments must be by affirmative vote of Unit Owners owning more than fifty percent (50%) of the Units.

6.2 By The Developer. The Developer, during the time it has the right to elect a majority of the Board of Directors of the Association, may amend the Declaration, the Articles of Incorporation or the By-Laws of the Association to correct an omission or error, or effect any other amendment, without the need to obtain the consent or approval of any other Unit Owners, except that this procedure for amendment cannot be used if such an amendment would materially and adversely affect substantial property rights of Unit Owners, or create time share estates, unless the affected Unit Owners consent thereto. Notwithstanding the foregoing, no amendment may change the configuration or size of any Condominium 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 parcel shares the Common Expenses and owns the Common Surplus unless the record Owner of the Unit and all record Owners of liens on it join in the execution of the amendment and unless all the record Owners of all other Units approve the amendment.

6.3 Execution and Recording. An amendment, other than amendments made by the Developer alone pursuant to the Act or this Declaration, 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. Amendments by the Developer must be evidenced by a similar certificate executed by the Developer alone. An amendment of the Declaration is effective when the amendment and the applicable certificate is properly recorded in the public records of the County and submitted to the Division of Florida Land Sales, Condominiums and Mobile Homes.

6.4 Provision. No amendment may change the configuration or size of any Condominium 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 parcel shares the Common Expenses and owns the Common Surplus unless the record Owner of the Unit and all record Owners of liens on it join in the execution of the amendment and unless all the record Owners of all other Units approve the

amendment. No amendment may be adopted which would delineate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer or mortgagees of Units without the consent of said Developer and mortgagees in each instance, which consent may not be unreasonably withheld; nor shall an amendment make any change in the Sections hereof entitled "Insurance", "Reconstruction or Repair after Casualty", or "Condemnation" unless all holders of first mortgages against the Units shall join in the amendment. The provisions of this Section 6.4 may not be amended in any manner except with approval of One Hundred percent (100%) of the Unit Owners and all first mortgagees.

6.5 Format. 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 in 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." Nonmaterial errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

7. MAINTENANCE AND REPAIRS.

7.1 Units. All maintenance, repairs and replacements of, in, or to any Unit, whether structural or nonstructural, ordinary or extraordinary, including, without limitation, maintenance, repair and replacement of windows, the interior side of the elevator door and all other doors within or affording access to a Unit, and the electrical (including wiring), plumbing (including fixtures and connections), heating and air-conditioning equipment, fixtures and outlets, appliances, carpets and other floor coverings, all interior surfaces and the entire interior of the Unit lying within the boundaries of the Unit or other property belonging to the Unit Owner, 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.

7.2 Common Elements. Except to the extent expressly provided to the contrary herein, all maintenance, repairs, and replacements in or to the Common Elements (other than certain Limited Common Elements as provided in this Declaration) shall be a Common Expense and performed by and be the obligation of the Association, except to the extent arising from or necessitated by the negligence, misuse, or neglect of specific Unit Owners or their tenants and guests, in which case such cost and expense shall be paid solely by such Unit Owners.

7.3 Specific Unit Owner Responsibility. The obligation to maintain and repair any equipment, fixtures or other items of property which service a particular Unit or Units shall be the responsibility of the applicable Unit Owner(s) individually, for which the particular equipment, fixture or other item of property serves, and not the Association, without regard to whether such items are included within the boundaries of the Unit(s), provided that if not within the boundaries of a Unit, same must constitute or lie within a Limited Common Element appurtenant thereto.

8. ADDITIONS, ALTERATIONS OR IMPROVEMENTS BY THE ASSOCIATION. Whenever, in the judgment of the Board of Directors, the Common Elements, or any part thereof, shall require capital additions, alterations or improvements (as distinguished from repairs and replacements) costing in excess of Five Thousand Dollars (\$5,000.00) in the aggregate in any calendar year, the Association may proceed with such additions, alterations or improvements only if the making of such additions, alterations or improvements shall have been approved by a majority of the Units

represented at a meeting at which a quorum is attained. Any such additions, alterations or improvements to such Common Elements, or any part thereof, costing in the aggregate Five Thousand Dollars (\$5,000.00) or less in a calendar year may be made by the Association without approval of the Unit Owners. The cost and expense of any such additions, alterations or improvements to such Common Elements shall constitute a part of the Common Expenses and shall be assessed to the Unit Owners as Common Expenses. For purposes of this section, "aggregate in any calendar year" shall include the total debt incurred in that year if such debt is incurred to perform the above-stated purposes, regardless of whether the repayment of any part of that debt is made beyond that year.

9. ADDITIONS, ALTERATIONS OR IMPROVEMENTS BY A UNIT OWNER.

9.1 Consent of the Board of Directors. No Unit Owner shall make any addition, alteration or improvement in or to the Common Elements, his Unit or any Limited Common Element which affects any structural component, or the Common Elements or Limited Common Elements, or perform any structural, electrical, mechanical or plumbing work for which a permit is required by applicable governmental regulations, without the prior written consent of the Board of Directors, provided that the Board of Directors shall not withhold its consent to the installation of hurricane shutters as long as same have a character, location and other attributes approved by the Board. The Board shall have the obligation to answer any written request by a Unit Owner for approval of such an addition, alteration or improvement in such Unit Owner's Unit or Limited Common Elements appurtenant to said Owner's Unit within thirty (30) days after such request and all additional information requested is received, and the failure to do so within the stipulated time shall constitute the Board's consent. 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, and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. Once approved by the Board of Directors, such approval may not be revoked, provided however, in the event the construction of any addition, alteration or improvement approved by the Board is not commenced within one (1) year of the date of such approval, such approval shall be deemed to have terminated and be of no further force and effect. The Board shall, in its discretion, have the right to impose reasonable restrictions and conditions upon the time of year, days and time of day during which construction of any addition, alteration or improvements may be made. 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 his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, 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 and insurance thereof from and after that date of installation or construction thereof as may be required by the Association.

9.2 Additions, Alterations or Improvements by Developer. The foregoing restrictions of this Section 9 shall not apply to Developer owned Units. The Developer shall have the additional right, without the consent or approval of the Board of Directors or other Unit Owners, to make alterations, additions or improvements, structural and non-structural, interior and exterior, ordinary and extraordinary, in, to and upon any Unit owned by it and Limited Common Elements appurtenant thereto (including, without limitation, the removal of walls, floors, ceilings and other structural portions of the Improvements).

10. **CHANGES IN DEVELOPER OWNED UNITS.** Without limiting the generality of the provisions of Subsection 9.2 above, the Developer shall have the right to: (i) make alterations, additions or improvements in, to and upon Units owned by the Developer, whether structural or non-structural,

interior or exterior, ordinary or extraordinary; (ii) change the layout or number of rooms in any Developer owned Units; (iii) change the size and/or number of Developer owned Units by subdividing one (1) or more Developer owned Units into two (2) or more separate Units, combining separate Developer owned Units (including those resulting from such subdivision or otherwise) into one (1) or more Units, or otherwise; (iv) reapportion among the Developer owned Units affected by such change in size or number pursuant to the preceding clause, their appurtenant interests in the Common Elements and share of the Common Surplus and Common Expenses, (v) construct less than the 265 proposed units; provided, however, that the Developer shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction in so doing and providing that any change in configuration or size of any Unit in any material fashion, any material alteration or modification to the appurtenance to the Unit, or change in the proportion or percentage by which Unit Owners share the Common Expenses of the Condominium and ownership of the Common Surplus of the Condominium shall require the consent of the record Owner of the Unit and all record Owners of liens on the Unit and all other record Owners of all other Units in the Condominium. In making the above alterations, additions and improvements, the Developer may relocate and alter Common Elements and/or Limited Common Elements adjacent to such Units, incorporate portions of the Common Elements and/or Limited Common Elements into adjacent Units and incorporate Units into adjacent Common Elements. Any amendments to this Declaration required by action taken pursuant to this Section 10 may be effected by the Developer in accordance with the Florida Statutes. Without limiting the generality of Section 6.4 hereof, the provisions of this Section may not be added to, amended or deleted unless by, or with the prior written consent of the Developer.

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

11. 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 Articles of Incorporation of the Association and its By-Laws, as amended from time to time (respectively, Exhibit D and Exhibit E annexed hereto). In addition, the Association shall have all the powers and duties set forth in the Act, as well as 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 and its Limited Common Elements from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any Common Elements therein or to perform pest control services, or at any time and by force, if necessary, for making emergency repairs therein necessary to prevent damage to the Common Elements or to any other Unit or Units.

(b) The power to make and collect Assessments and other charges against Unit Owners and to lease, maintain, repair and replace the Common Elements.

(c) The duty to maintain accounting records according to good accounting practice, which shall be open to inspection by Unit Owners or their authorized representatives at reasonable times upon prior request.

(d) The power to contract for the management and maintenance of the Condominium Property and to authorize a duly licensed management agent (who may be an affiliate of the Developer) 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 and maintenance, repair and replacement of Common Elements 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.

(e) 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, if any, provided that such actions are approved by a majority of the entire membership of the Board of Directors and a majority of the Units represented at a meeting at which a quorum has been attained, or by such greater percentage of the Board or Unit Owners as may be specified in the By-Laws with respect to certain borrowing, provided further that no such action shall be permitted while the Developer owns any Unit without the prior written consent of the Developer.

(f) The power to charge a fee for the exclusive use of any Common Elements by an Owner having a right to such use.

(g) The power to adopt and amend rules and regulations concerning the details of the operation and use of the Condominium Property.

(h) The power to execute all documents or consents, on behalf of all Unit Owners (and their mortgagees) required by all governmental and/or quasi-governmental agencies in connection with land use and development matters (including without limitation, plats, waivers of plat, unities of title, covenants and easements, etc.) and in that regard, each Unit Owner, by acceptance of the deed to such Unit Owner's Unit, and each mortgagee of a Unit Owner, by acceptance of a lien on said Unit, appoints and designates the Association, by and through its president or vice president, as such Unit Owner's agent and attorney-in-fact to execute any and all such documents or consents.

(i) All of the powers which a corporation notforprofit in the State of Florida may exercise.

In the event of conflict among the powers and duties of the Association or 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 authority over the Condominium, consistent with the Act.

11.2 Limitation of Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage; other than for the cost of maintenance and repair, caused by any latent condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements done by or on behalf of any Unit Owners, regardless if, whether or not, same shall have been approved by the Association pursuant to Section 9.1 hereof. The Association shall also not be liable to any Unit Owner, lessee, occupant or to any other person or entity for any property damage, personal injury, death or other liability on the grounds that the Association did not obtain or maintain insurance (or carry insurance with any particular deductible amount) for any particular matter where: (i) such insurance is not required hereby; or (ii) the Association could not obtain such insurance at reasonable cost or upon reasonable terms.

(A) IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE CONDOMINIUM PROPERTY HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENFORCING AND MAINTAINING THE ENJOYMENT OF THE CONDOMINIUM PROPERTY AND THE VALUE THEREOF;

(B) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, ST. LUCIE COUNTY, THE CITY OF FORT PIERCE AND/OR ANY OTHER JURISDICTION, OR THE PREVENTION OF TORTIOUS ACTIVITIES, AND

(C) ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH UNIT OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS UNIT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE CONDOMINIUM PROPERTY (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS PROVISION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS SUBSECTION 11.2.

AS USED IN THIS ARTICLE, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS, AND ASSIGNS. THE PROVISIONS OF THIS SUBSECTION SHALL ALSO INURE TO THE BENEFIT OF THE DEVELOPER AND ITS AFFILIATES, WHICH SHALL BE FULLY PROTECTED HEREBY.

11.3 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 a Unit.

11.4 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, 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 the Condominium Act.

11.5 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 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.

12. **DETERMINATION OF COMMON EXPENSES AND FIXING OF ASSESSMENTS THEREFORE.**

12.1 Budget and Assessments. The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of Assessments payable by the Unit Owners to meet the Common Expenses of the Condominium and allocate and assess such expenses among the Unit Owners in accordance with the provisions of this Declaration and the By-Laws. 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 and (if requested in writing) to their respective mortgagees. The Common Expenses shall include the expenses of and reserves for (if required by law) the operation, maintenance, repair and replacement of the Common Elements, costs of carrying out the powers and duties of the Association and any other expenses designated as Common Expenses by the Act, this Declaration, the Articles or By-Laws of the Association, applicable rules and regulations or by the Association. 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.

12.2 General Operating Contingency Fund. The Board, when establishing each annual budget may, when deemed necessary or desirable, include therein a sum to be collected and maintained as a general operating contingency fund to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies from time to time existing as a result of delinquent payment of Assessments by Owners of Units, as a result of emergencies or for other reason, placing financial stress upon the Association. The annual amount allocated to such operating contingency fund and collected therefor shall not exceed ten percent (10%) of the current annual assessment levied against the Owners of all Units. Upon accrual in the operating contingency fund of an amount equal to twenty-five percent (25%) of the current annual assessment, no further payments shall be collected from the Owners of Units as a contribution to such operating contingency fund, unless it shall be reduced below the twenty-five percent (25%) level, in which event the annual assessment against each Owner and Unit shall be increased to restore the operating contingency fund to an amount which will equal twenty-five percent (25%) of the current annual amount of said assessment.

12.3 Special Assessments. In addition to Assessments levied by the Association to meet the Common Expenses of the Condominium and the Association, the Board of Directors may levy "Special Assessments" upon the following terms and conditions:

(a) "Special Assessments" shall mean and refer to a charge against each Unit Owner and the Unit Owner's Unit, representing assessments other than assessments required by a budget adopted annually.

(b) Special Assessments may be levied by the Board and shall be payable in lump sums or installments, in the discretion of the Board; provided that, if such Special Assessments in the aggregate in any year, exceed one hundred fifteen percent (115%) of the normal Assessments for the preceding calendar year, the Board of Directors must obtain approval of a majority of the Unit Owner's Units represented at a meeting at which a quorum is attained.

(c) For the purposes of collection pursuant to this Declaration, the term Assessments shall be deemed to include Special Assessments.

13. COLLECTION OF ASSESSMENTS.

13.1 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, is liable for all Assessments which come due while he is the Unit Owner. In the case of a conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor for his share of the Common Expenses up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the Unit for which the Assessments are made or otherwise.

13.2 Default in Payment of Assessments. 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. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such Condominium Parcel, with interest and for reasonable attorneys' fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien. The lien is effective as of the date of the recording of this Declaration and shall be evidenced by the recording of a claim of lien in the Public Records of the County, stating the description of the Condominium Parcel, the name of the record Owner, the amount due and the due dates. The claim of lien shall not be released until all sums secured by it (or such other amount as to which the Association shall agree by way of settlement) have been fully paid or until it is barred by law. The claim of lien shall secure (whether or not stated therein) all unpaid Assessments, interest thereon, and costs and attorneys' fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure thereof. A claim of lien shall be signed and acknowledged by an officer or agent of the Association. Upon payment, the person making the payment is entitled to a satisfaction of the lien in recordable form. The Association may bring an action in its name to foreclose a lien for unpaid Assessments in the 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 claim of lien shall also include the name and address of the Association.

As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid and after thirty (30) days prior written notice to the applicable Unit Owner, the Association may, upon recording a claim of lien, declare the balance of the Assessments due for the remainder of the budget year in which the claim of lien was filed to be accelerated and be immediately due and payable.

The obligations for Assessments hereunder shall, in addition to that described above, become the personal obligation of the Unit Owner, enforceable in the same manner as any other personal debt, and the Association shall have the right to obtain a personal money judgment against any Unit Owner for past due Assessments.

13.3 Notice of Intention to Foreclose Lien. No foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments. The notice must be given by delivery of a copy of it to the Unit Owner or by certified or registered mail, return receipt requested, addressed to the Unit Owner at the last known address, and upon such mailing, the notice shall be deemed to have been given. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorneys' fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.

13.4 Appointment of Receiver to Collect Rental. If the Unit Owner remains in possession of the Unit and the claim of lien is foreclosed, the court, in its discretion, may require the Unit Owner to pay 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 due and payable from the Unit Owner.

13.5 Institutional Mortgagee. In the event an Institutional Mortgagee holding a first mortgage shall obtain title to a Unit as a result of foreclosure of its mortgage, or as a result of a deed given in lieu of foreclosure or in satisfaction of debt, such Institutional Mortgagee, its successors and assigns, shall be liable for no more than six (6) months (or such greater amount as provided by law), of such Condominium Parcel's share of Common Expenses or Assessments or other charges imposed by the Association pertaining to such Condominium Parcel or chargeable to the former Unit Owner of such Condominium Parcel which became due prior to (but not after) acquisition of title as a result of the foreclosure (provided the Association has been properly named as a defendant junior lien holder) or the acceptance of such deed-in-lieu. In the event Assessments due on such Unit exceed such amount, the Institutional Mortgagee holding a first mortgage shall not be liable for any additional amount unless such share is secured by a claim of lien that is recorded prior to the recording of the subject mortgage. Any such unpaid share of Common Expenses or Assessments or other charges which remain unpaid as a result of the limitations described herein, same shall be deemed to be Common Expenses collectible from all of the Unit Owners, including such acquirer, and such acquirer's successors and assigns.

13.6 Developer's Liability for Assessments. During the period from the date of recording of this Declaration until the later of the date three (3) years thereafter or the date on which control of the Association is transferred to Unit Owners other than the Developer (the "Guarantee Expiration Date"), the Developer, at its option, shall not be obligated to pay the share of the Common Expenses and Assessments attributable to Units it is offering for sale, provided that the regular monthly Assessments for Common Expenses imposed on each Unit Owner other than the Developer shall not increase during such period over the amount set forth in the Estimated Operating Budget contained in the applicable Prospectus delivered to such Unit Owner, which is estimated to be \$ \$224.00 per month, and provided further that the Developer shall be obligated to pay any amount of Common Expenses actually incurred during such period and not covered by Assessments at the guaranteed level. For purposes of this Section, income to the Association other than Assessments (as defined herein and in the Act) shall not be taken into account when determining the deficits to be funded by the Developer. After the Guarantee Expiration Date, the Developer shall have the option of extending the guarantee for one or more additional stated periods. The extension of a guarantee is limited to extending the ending date or event; therefore, the Developer does not have the option of changing the level of assessments guaranteed. No funds receivable from Unit purchasers or Owners payable to the Association or collected by the Developer on behalf of the Association, other than regular periodic Assessments for Common Expenses as provided in this Declaration and disclosed in the Estimated Operating Budget referred to above, shall be used for the payment of Common Expenses prior to the Guarantee Expiration Date.

13.7 Certificate of Unpaid Assessments. Within fifteen (15) days after written request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating all Assessments and other moneys owed to the Association by the Unit Owner with respect to his Unit. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby. The Association may charge an administrative fee of up to One Hundred and No/100 Dollars (\$100.00) for providing the aforesaid certificate.

13.8 Installments. Regular Assessments shall be collected monthly, in advance, as determined from time to time by the Board of Directors. Initially, Assessments will be collected quarterly.

14. **INSURANCE**. Insurance covering the Condominium Property and the Association Property shall be governed by the following provisions:

14.1 Purchase, Custody and Payment.

(a) Purchase. All insurance policies described herein covering portions of the Condominium Property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.

(b) Named Insured. The named insured shall be the Association, individually, and as agent for Owners of Units covered by the policy, without naming them, and as agent for their mortgagees, without naming them. The Unit Owners and their mortgagees shall be deemed additional insureds.

(c) Custody of Policies and Payment of Proceeds. All policies shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (if appointed), and all policies and endorsements thereto shall be deposited with the Insurance Trustee (if appointed).

(d) Copies to Mortgagees. One (1) copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, shall be furnished by the Association upon request to each Institutional Mortgagee who holds a mortgage upon a Unit covered by the policy. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the policy, or not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced as appropriate.

(e) Personal Property and Liability. Except as specifically provided herein or by the Act, the Association shall not be responsible to Unit Owners for obtaining insurance coverage upon the property lying within the boundaries of their Unit, including, but not limited to, their personal property, and for their personal liability and living expense and for any other risks not otherwise insured in accordance herewith.

14.2 Coverage. The Association shall maintain insurance covering the following:

(a) Casualty. The Buildings (including all fixtures, installations or additions comprising that part of each Building within the boundaries of the Units and required by the Act to be insured under the Association's policy(ies), but excluding all furniture, furnishings, floor coverings, wall coverings and ceiling coverings or other personal property owned, supplied or installed by Unit Owners or tenant of Unit Owners) and all Improvements located on the Common Elements from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Elements or owned by the

Association (collectively the "Insured Property"), shall be insured in an amount not less than One Hundred percent (100%) of the full insurable replacement value thereof, excluding foundation and excavation costs. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association. Such coverage shall afford protection against such other risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.

(b) Liability. Comprehensive general public liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Insured Property or adjoining driveways and walkways, or any work, matters or things related to the Insured Property, with such coverage as shall be required by the Board of Directors of the Association, but with combined single limit liability of not less than One Million Dollars (\$1,000,000.00) per occurrence, and with a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa.

(c) Worker's Compensation and other mandatory insurance, when applicable.

(d) Flood Insurance if required by the FNMA/FHLMC or if the Association so elects.

(e) Fidelity Insurance, equal to the maximum amount of funds that will be in the custody of the Association at any one time shall be required for all persons who control or disburse funds of the association. The premiums on such insurance or bond shall be paid by the Association as a Common Expense.

(f) Appropriate additional policy provisions, policies or endorsements extending the applicable portions of the coverage described above to all Association Property, where such coverage is available.

(g) Such other Insurance as the Board of Directors of the Association shall determine, from time to time, to be desirable, including, without limitation, directors' and officers' liability insurance.

When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to (i) subrogation against the Association and against the Unit Owners individually and as a group; (ii) pay only a fraction of any loss in the event of coinsurance or if other insurance carriers have issued coverage upon same risk; and (iii) avoid liability for a loss that is caused by an act of the Board of Directors of the Association, a member of the Board of Directors of the Association, one or more Unit Owners or as a result of contractual undertakings. Additionally, each policy shall provide that any insurance trust agreement will be recognized, that the insurance provided shall not be prejudiced by any acts or omissions of individual Unit Owners that are not under the control of the Association, and that the policy shall be primary, even if a Unit Owner has other insurance that covers the same loss.

Every casualty insurance policy obtained by the Association shall have the following endorsements if required by FNMA/FHLMC: (i) agreed amount and inflation guard; and (ii) steam boiler coverage (providing at least Fifty Thousand Dollars (\$50,000.00) coverage for each accident at each location), if applicable.

14.3 Additional Provisions. All policies of insurance shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days prior written notice to all of the named insureds, including all mortgagees of Units. Prior to obtaining any policy of casualty insurance or any renewal thereof, the Board of Directors shall obtain an appraisal from a fire insurance company, or other competent appraiser, of the full insurable replacement value of the Insured Property (exclusive of foundations), without deduction for depreciation, for the purpose of determining the amount of insurance to be effected pursuant to this Section.

14.4 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense, including the costs of fidelity bonding for any persons who control or disburse funds of the Association.

14.5 Insurance Trustee: Share of Proceeds. All insurance policies obtained by or on behalf of the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee which may be designated by the Board of Directors and which, if so appointed, shall be a bank or trust company in Florida with trust powers, with its principal place of business in the State of Florida. The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees in the following shares, but shares need not be set forth on the records of the Insurance Trustee:

(a) Insured Property. Proceeds on account of damage to the Insured Property shall be held in undivided shares for each Unit Owner, such shares being the same as the undivided shares in the Common Elements appurtenant to each Unit, provided that if the Insured Property so damaged includes property lying within the boundaries of specific Units (or their balconies), that portion of the proceeds allocable to such property shall be held as if that portion of the Insured Property were Optional Property as described in Subsection 14.5(b) below.

(b) Optional Property. Proceeds on account of damage solely to Units and/or certain portions or all of the contents thereof not included in the Insured Property (all as determined by the Association in its sole discretion) (collectively the "Optional Property"), if any is collected by reason of optional insurance which the Association elects to carry thereon (as contemplated herein), shall be held for the benefit of Owners of Units or other portions of the Optional Property damaged in proportion to the cost of repairing the damage suffered by each such affected Owner, which cost and allocation shall be determined in the sole discretion of the Association.

(c) Mortgagees. 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 for actual distributions thereof made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration.

14.6 Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee, if any, shall be distributed to or for the benefit of the beneficial owners thereof in the following manner:

(a) Expenses of the Trust. All expenses of the Insurance Trustee shall be first paid or provision shall be made therefor.

(b) Reconstruction or Repair. If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners thereof, remittances to Unit Owners and their mortgagees being payable jointly to them.

(c) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damaged property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be allocated among the beneficial owners as provided in Section 14.5 above, and distributed first to all Institutional Mortgagees in an amount sufficient to payoff their mortgages, and the balance, if any, to the beneficial owners.

(d) Certificate. In making distributions to Unit Owners and their mortgagees, the Insurance Trustee (if appointed) 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 their respective shares of the distribution.

14.7 Association as Agent. The Association is hereby irrevocably appointed as agent and attorney-in-fact for each Unit Owner and for each owner of a mortgage 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.

14.8 Unit Owners' Personal Coverage. Unless the Association elects otherwise, the insurance purchased by the Association shall not cover claims against an Owner due to accidents occurring within his Unit or Limited Common Elements, nor casualty or theft loss to the contents of an Owner's Unit or Limited Common Elements. It shall be the obligation of the individual Unit Owner, if such Owner so desires, to purchase and pay for insurance as to all such and other risks not covered by insurance carried by the Association.

14.9 Benefit of Mortgagees. Certain provisions in this Section 14 entitled "Insurance" are for the benefit of mortgagees of Units and may be enforced by such mortgagees.

14.10 Insurance Trustee. The Board of Directors of the Association shall have the option in its discretion of appointing an Insurance Trustee hereunder; if the Association fails or elects not to appoint such trustee, the Association will perform directly all obligations imposed upon such Trustee by this Declaration. Fees and expenses of any Insurance Trustee are Common Expenses.

14.11 Presumption as to Damaged Property. In the event of a dispute or lack of certainty as to their damaged property constitutes a Unit(s) or Common Elements, such property shall be presumed to be Common Elements.

15. RECONSTRUCTION OR REPAIR AFTER FIRE OR OTHER CASUALTY.

15.1 Determination to Reconstruct or Repair. Subject to the immediately following paragraph, in the event of damage to or destruction of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration of the Insured

Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) and the Insurance Trustee (if appointed) shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

If seventy-five percent (75%) or more of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) is substantially damaged or destroyed and if Unit Owners owning seventy-five percent (75%) of the applicable interests in the Common Elements duly resolve within sixty (60) days of such damage or destruction not to proceed with the repair or restoration thereof and a majority of Institutional Mortgagees approve such resolution, the Condominium Property will not be repaired and shall be subject to an action for partition instituted by the Association, any Unit Owner, mortgagee or lienor, as if the Condominium Property were owned in common, in which event the net proceeds of insurance resulting from such damage or destruction shall be divided among all the Unit Owners in proportion to their respective interests in the Common Elements (with respect to proceeds held for damage to the Insured Property other than that portion of the Insured Property lying within the boundaries of the Unit), and among affected Unit Owners in proportion to the damage suffered by each such affected Unit Owner, as determined in the sole discretion of the Association (with respect to proceeds held for damage to the Optional Property, if any, and/or that portion of the Insured Property lying within the boundaries of the Unit); provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such fund all mortgages and liens on his Unit in the order of priority of such mortgages and liens.

Whenever in this Section the words "promptly repair" are used, it shall mean that repairs are to begin not more than one hundred fifty (150) days from the date the Insurance Trustee (if appointed) notifies the Board of Directors and Unit Owners that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated cost of such work, or not more than one hundred eighty (180) days after the Insurance Trustee (if appointed) notifies the Board of Directors and the Unit Owner that such proceeds of Insurance are insufficient to pay the estimated costs of such work. The Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary to determine whether or not the damaged property is to be reconstructed or repaired.

15.2 Plans and Specifications. Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original Improvements and then applicable building and other codes; or if not, then in accordance with the plans and specifications approved by the Board of Directors of the Association and then applicable building and other codes, and if the damaged property which is to be altered is a Building or the Optional Property, by the Owners of not less than seventy-five percent (75%) of the applicable interests In the Common Elements, as well as the Owners of all Units, Limited Common Elements and other portions of the Optional Property (and their respective mortgagees), the plans for which are to be altered.

15.3 Special Responsibility. If the damage is only to those parts of the Optional Property for which the responsibility of maintenance and repair is that of the respective Unit Owners, then the Unit Owners shall be responsible for all necessary reconstruction and repair, which shall be effected promptly and in accordance with guidelines established by the Board of Directors (unless insurance proceeds are held by the Association with respect thereto by reason of the purchase of optional insurance thereon, in which case the Association shall have the responsibility to reconstruct and repair the damaged Optional Property, provided the respective Unit Owners shall be individually responsible for any amount by which the cost of such repair or reconstruction exceeds the insurance proceeds held for such repair or reconstruction on a Unit by Unit basis, as determined in the sole

discretion of the Association). In all other instances, the responsibility for all necessary reconstruction and repair shall be that of the Association.

15.4 Disbursement. The proceeds of insurance collected on account of a casualty, and the sum collected from Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:

(a) Association - Lesser Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is less than Twenty Thousand Dollars (\$20,000.00), then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors of the Association; provided, however, that upon request to the Insurance Trustee (if appointed) by an Institutional Mortgagee which is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided below for the reconstruction and repair of major damage.

(b) Association - Major Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is more than Twenty Thousand Dollars (\$20,000.00); then the construction fund shall be disbursed in payment of such costs in the manner contemplated by Subsection 15.4(a) above, but then only upon the further approval of an architect or engineer qualified to practice in Florida and employed by the Association to supervise the work.

(c) Unit Owners. If there is a balance of insurance proceeds after payment of all costs of reconstruction and repair that are the responsibility of the Association, this balance may be used by the Association to effect repairs to the Optional Property (if not insured or if under-insured), or may be distributed to Owners of the Optional Property who have the responsibility for reconstruction and repair thereof. The distribution shall be in the proportion that the estimated cost of reconstruction and repair of such damage to each affected Unit Owner bears to the total of such estimated costs to all affected Unit Owners, as determined by the Board; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs of repair for his portion of the Optional Property. All proceeds must be used to effect repairs to the Optional Property, and if insufficient to complete such repairs, the Owners shall pay the deficit with respect to their portion of the Optional Property and promptly effect the repairs. Any balance remaining after such repairs have been effected shall be distributed to the affected Unit Owners and their mortgagees jointly as elsewhere herein contemplated.

(d) Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except however, that part of a distribution to an Owner which is not in excess of Assessments paid by such Owner into the construction fund shall not be made payable jointly to any mortgagee.

(e) Certificate. Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Unit Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be made upon the order of the Association alone or upon the additional approval of an architect, engineer or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the Assessments paid by Owners, nor to determine the

payees nor the amounts to be paid. The Insurance Trustee may rely upon a certificate of the Association, made by its President and Secretary, as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the names of the payees and the amounts to be paid.

15.5 Assessments. If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair to be effected by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Assessments on account of damage to the Insured Property shall be in proportion to all of the Owners' respective shares in the Common Elements, and on account of damage to the Optional Property, in proportion to the cost of repairing the damage suffered by each Owner thereof, as determined by the Association.

15.6 Benefit of Mortgagees. Certain provisions in this Section 15 are for the benefit of mortgagees of Units and may be enforced by any of them.

15.7 Deductibles. Any expenses incurred by the Association as a result of the unavailability of insurance proceeds because of deductibles shall be a Common Expense of the Association; provided, however, that the Association shall have the right to collect, by all legal means, from the applicable Unit Owner(s) any sums expended by the Association pursuant to this Section which are made necessary by the acts or omissions of a Unit Owner (or other Unit occupant for whom the Unit Owner is responsible) which caused damage to any property insured pursuant to this Declaration.

16. CONDEMNATION.

16.1 Deposit of Awards with Insurance Trustee. The taking of portions of the Condominium Property by the exercise of the power of eminent domain shall be deemed to be a casualty, and the award for that taking shall be deemed to be proceeds from insurance on account of the casualty and shall be deposited with the Insurance Trustee. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Insurance Trustee; and in the event of failure to do so, in the discretion of the Board of Directors of the Association, the Unit Owner shall pay an amount equal to the amount of his award, or the amount of that award shall be set off against the sums hereafter made payable to that Owner.

16.2 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.

16.3 Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of the awards 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 shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds by the Insurance Trustee (if appointed) after a casualty, or as elsewhere in this Section 16 specifically provided.

16.4 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 of the Association), the award for the

taking of a portion of the Unit or its Limited Common Elements 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 (and its applicable Limited Common Elements) shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be paid by the Owner of the Unit or its Limited Common Elements.

(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, the remittance being made payable jointly to the Owner and such mortgagees.

(c) Adjustment of Shares in Common Elements. If the floor area of the Unit is reduced by the taking, the percentage representing the share in the Common Elements and of the Common Expenses and Common Surplus appurtenant to the Unit shall be reduced by multiplying the percentage of the applicable Unit prior to reduction 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 then 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.

16.5 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 of the Association), 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 as follows: first, to the applicable Institutional Mortgagees in amounts sufficient to payoff their mortgages in connection with each Unit, which is not so habitable; second, to the Association for any due and unpaid Assessments; and third, jointly to the affected Unit Owners and other mortgagees of their Units. In no event shall the total of such distributions in respect of a specific Unit exceed the market value of such Unit immediately prior to the taking. The balance, if any, shall be applied to repairing and replacing the Common Elements.

(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 for capital improvements to the Common Elements.

(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 Unit Owners (and among reduced 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 Subsection 16.4(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 Subsection 16.4(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 Owner and such Owner's mortgagees as above provided) 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.

(e) Arbitration. If the market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and mortgagees of the Unit, and the Association within thirty (30) days after notice of a dispute by any affected party, such value 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 an average of their appraisals of the Unit. A judgment upon the decision rendered by the arbitrators may be entered in any court of competent jurisdiction in accordance with the Florida Arbitration Code. The cost of arbitration proceedings shall be assessed against all Units Owners, including Owners who will not continue after the taking, in proportion to the applicable percentage shares of such Owners as they exist prior to the adjustments to such shares effected pursuant hereto by reason of the taking.

16.6 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 elsewhere required for capital improvements to the Common Elements. 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 effected pursuant hereto by reason of the taking. If there is a mortgage on a Unit, the distribution shall be paid jointly to the Owner and the mortgagees of the Unit.

16.7 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 that is only required to be approved by, and executed upon the direction of, a majority of all Directors of the Association.

17. 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:

17.1 Occupancy. Each Unit shall be used as a residence only, except as otherwise herein expressly provided. A Unit owned by an individual (or individuals in the case of joint ownership by family members), corporation, partnership, trust or other entity may only be occupied by the following persons, and such persons' families or guests: (i) the individual Unit Owner; (ii) one designated officer, director, stock holder, employee or designee of such corporation as the Primary Occupant; (iii) one partner, employee or designee of such partnership as the Primary Occupant; (iv) one Trustee or one beneficiary of such Trust as the Primary Occupant; (v) one principal or member of another entity as the Primary Occupant; or (vi) permitted occupants under an approved lease or sublease of the Unit (as described below), as the case may be.

For purposes hereof, Primary Occupant shall be deemed to mean that individual who has the right to the use and occupancy of a Unit in the same fashion as a Unit Owner. With respect to the

various entities described above which must designate a Primary Occupant, such Primary Occupant must be designated at the time that such entity takes title to a Unit, and such designation shall be made in writing and delivered to the Association on a form provided by the Association. An entity designating a Primary Occupant hereunder may not change such designation more frequently than every two (2) years. As used herein, "family" or words of similar import shall be deemed to include a spouse, children, parents, brothers, sisters, grandchildren and other persons permanently cohabiting the Unit as or together with the Owner or permitted occupant thereof. As used herein, "guest" or words of similar import shall include only those persons who have a principal residence other than the Unit. Unless otherwise determined by the Board of Directors of the Association, a person(s) occupying a Unit for more than sixty (60) days shall not be deemed a guest but, rather, shall be deemed a lessee for purposes of this Declaration (regardless of whether a lease exists or rent is paid) and shall be subject to the provisions of this Declaration which apply to lessees. All guests must be registered with the Association. The purpose of this Subsection 17.1 is to prohibit the circumvention of the provisions and intent of this Section 17, which together with Section 18 hereof, is intended to limit the use and occupancy of the Units and the Condominium Property so that such use and occupancy does not become transient and similar to a resort lodging facility. The Board of Directors of the Association shall enforce, and the Unit Owners comply with, such restrictions and limitations with due regard for such purpose.

17.2 Children. Children shall be permitted to reside in Units, subject to the provisions of this Section 17. Children shall be supervised so as not to become a nuisance or endanger themselves or others.

17.3 Pets. Each Unit Owner (regardless of the number of joint Owners or occupants) may maintain one (1) household pet in his Unit, to be limited to a dog or cat not to exceed a total of twenty five (25) pounds in weight, except for the following breeds of dogs (or mixed breed dogs of such breeds) which shall not be permitted: Pit Bull Terriers, Dobermans, Rottweilers, German Shepherds, St. Bernards. Pets may only be kept on the Condominium Property, provided they are not bred or maintained for any commercial purpose, and provided they do not become a nuisance or annoyance to neighbors, and are registered with the Association. No reptiles or wildlife shall be kept in or on the Condominium Property (including Units). Unit Owners must pick up all solid wastes of their pets and dispose of such wastes appropriately. All pets (including cats) must be kept on a leash no more than six (6) feet in length at all times when outside the Unit and shall be walked only within areas, if any, designated for such purpose by the Association. Without limiting the generality of Section 19 hereof, a violation of the provisions of this Subsection 17.3 shall entitle the Association to all of its right and remedies, including, but not limited to, the right to fine Unit Owners (as provided in any applicable rules and regulations) and/or to require any pet to be permanently removed from the Condominium Property. This Section shall not prohibit the keeping of fish or a caged household-type bird(s) in a Unit, provided that a bird(s) is not kept on Limited Common Elements and does not become a nuisance or annoyance to neighbors. Lessees or guests shall not have the right to maintain any pets in a Unit. Pets are subject to further restrictions as may be set forth in Rules and Regulations promulgated by the Association from time to time.

17.4 Alterations. Without limiting the generality of Section 9.1 hereof, but subject to the proviso contained therein as to hurricane shutters, and subject to Section 10 hereof, no Unit Owner shall cause or allow improvements or changes to any Unit, Limited Common Elements appurtenant thereto or Common Elements, including but not limited to, painting or other decorating of any nature, installing any electrical wiring, television antenna, machinery, or air-conditioning units or in any manner changing the appearance of any portion of a Building, without obtaining the prior written consent of the Association (in the manner specified in Section 9.1 hereof).

17.5 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 the Units.

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

17.7 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 there over 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 Section 17.7. No activity specifically permitted by this Declaration shall be deemed a violation of this Section.

17.8 Exterior Improvements: Landscaping. Without limiting the generality of Sections 9.1 or 17.4 hereof, but subject to any provision of this Declaration specifically permitting same, no Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors or windows of the Buildings (including, but not limited to, antennae, awnings, signs, storm shutters, screens, furniture, fixtures and equipment), nor shall any Unit Owner plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life outside his Unit (except for potted plants, in reasonable numbers and size), without the prior written consent of the Association.

17.9 Commercial/Recreational Vehicles and Trailers. No vehicle shall be parked or otherwise kept within the Condominium Property unless such vehicle is of a type permitted by the Rules and Regulations promulgated by the Board of Directors. In no event shall any water craft, trailer, commercial vehicle, motor home, camper, recreational vehicle or similar type vehicle be parked overnight within the Condominium Property. In the event of any question or dispute as to whether any such vehicle is so permitted, the determination of the Association shall be dispositive.

17.10 Storm Shutters. If a Unit Owner wishes to install additional storm shutter protection for a Unit, a Unit Owner may do so provided such Unit Owner complies with the requirements of Section 9.1 hereof. Moreover, the Board of Directors of the Association (or the Developer, prior to turnover of the Association) shall adopt and approve a model, style and color of storm shutter as the standard storm shutter for use in the Condominium, one which complies with the applicable building code. No storm shutter except for the standard model, color and style adopted by the Board of Directors (or Developer) shall be used in or upon the Condominium.

17.11 Relief by Association. The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in this Section 17 for good cause shown.

17.12 Rules and Regulations. Reasonable Rules and Regulations concerning the use of the Condominium Property may be made and amended from time to time by the Board of Directors of the Association. Copies of such Rules and Regulations and amendments thereto shall be furnished by the Association to all Unit Owners and residents of the Condominium upon request.

17.13 United States Flag. Notwithstanding anything to the contrary contained in this Declaration or the Rules and Regulations, any Unit Owner may display one portable, removable United States Flag in a respectful way.

17.14 Changes in Permitted Uses. No amendments to this Section 17, any other provision of this Declaration governing the use of Units or the Common Elements, or to any Rules and Regulations of the Association, shall operate to prohibit the keeping of a pet, parking of a vehicle, or leasing or occupancy of a Unit, where same (i) was permitted prior to the effectiveness of the amendment; (ii) was being conducted in reliance on such permissibility; and (iii) is continuing with the same pet, vehicle, lessee or occupant as existed prior to the effectiveness of the amendment. Likewise, no Improvement made to or about any Unit (e.g., the installation of hurricane shutters) which was permitted at the time of its making shall be required to be removed by virtue of a change in the permissibility of such types of Improvements.

17.15 Proviso. Until Developer has completed all of the contemplated Improvements and closed on the sale on all of the Units in the Condominium, neither Unit Owners nor the Association shall interfere with the completion of the contemplated Improvements or the sale of the Units. Developer may make such use of the unsold Units and Common Elements as may facilitate such completion and sale, including but not limited to, the maintenance of a sales or management office, the showing of the Condominium Property and the display of signs.

18. LEASE, CONVEYANCE, MORTGAGE, MAINTENANCE OF COMMUNITY INTERESTS. In order to maintain a community of congenial Unit Owners who are financially responsible, and thus protect the value of the Units in a single family oriented, non-transient atmosphere, the transfer of Units by any Owner shall be subject to the following provisions, as long as the Condominium exists upon the Land, which provisions each Unit Owner covenants to observe. These objectives are important and justified because of the large financial investment of each Unit Owner and the sharing of facilities inherent in condominium living.

18.1 Transfers Subject to Approval.

(a) Sale. No Unit Owner may dispose of a Unit or any interest therein by sale without approval of the Association.

(b) Lease. No Unit Owner including the Developer may transfer possession or otherwise dispose of a Unit or any interest therein by lease without approval of the Association. Approvals of leases need not be recorded. Only entire Units may be leased. All leases must provide, and if they do not, shall be deemed to provide, the agreement of the lessee(s) to abide by all of the Condominium documents as promulgated and amended from time to time. A violation of any of the terms of any of the foregoing documents shall constitute a material breach of the lease and shall constitute grounds for damages, termination and eviction. The lessee and the Unit Owner agree that the Association may proceed directly against such lessee(s) and that the lessee(s) and the Unit Owner shall be jointly and severally responsible for all of the Association's costs and expenses (including, without limitation, attorneys' fees and costs of any kind, whether at trial or appellate levels or otherwise). If such costs and fees are not immediately paid by the lessee(s), the Unit Owner shall pay them and such funds shall be secured as a lien on the Unit. Each Unit Owner irrevocably appoints the Association as the Unit Owner's agent authorized to bring actions in such Unit Owner's name and at such Unit Owner's expense including injunction, damages, termination and eviction. The Rules and Regulations must be provided to the lessee(s) by or on the behalf of the Unit Owner at or before the commencement of the Lease term; provided, however, that lessee(s) obligations

under this Section 18 shall not be affected by the failure to provide such notice. The minimum leasing period is sixty (60) days and no Unit may be leased more than two (2) times per calendar year, unless modified by the Board.

(c) Gift, Devise or Inheritance; Other Transfers. If any Unit Owner shall acquire his title by gift, devise, inheritance or in any other manner, the continuance of his ownership shall be subject to the approval of the Association.

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

(a) Notice to Association.

(i). Sale. A Unit Owner intending to make a bonafide sale of his Unit or any interest therein shall give to the Association notice of such intention, together with the name, address and telephone number of the intended purchaser and such other information concerning the intended purchaser as the Association may reasonably require. Such notice, at the Unit Owner's option, may include a demand by the Unit Owner that the Association furnish a purchaser if the proposed purchaser is not approved, as is more particularly set forth in Section 18.3(a) of this Declaration. The notice shall be accompanied by a copy of the fully executed contract to sell.

(ii) Lease. A Unit Owner intending to make a bonafide lease of his Unit shall give to the Association notice of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as the Association may reasonably require, and an executed copy of the proposed lease, which lease shall provide that it is subject to approval by the Association.

(iii) Gift, Devise or Inheritance; Other Transfers. A Unit Owner who has acquired his title by gift, devise, inheritance or in any other manner not heretofore considered, shall give to the Association notice of the acquisition of his title, together with such information concerning the Unit Owner as the Association may reasonably require, and a certified copy of all instruments evidencing the Owner's title, within thirty (30) days of acquiring such title interest.

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

(b) Certificate of Approval.

(i) Sale. If the proposed transaction is a sale, then, within ten (10) days after receipt of such notice and information, the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the proper officers of the Association in recordable form and shall be delivered to the purchaser and shall be recorded in the Public Records of St. Lucie County, Florida.

(ii) Lease. If the proposed transaction is a lease which requires approval, then, within ten (10) days after receipt of such notice and information, the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate, executed by the proper officers of the Association in non-recordable form, and shall be delivered to the lessee,

(iii) Gift, Devise or Inheritance: Other Transfers. If the Unit Owner giving notice has acquired his title by gift, devise, inheritance or other manner, then, within ten (10) days after receipt of such notice and information, the Association must either approve or disapprove the continuance of the Unit Owner's ownership of the Unit. If approved, the approval shall be stated in a certificate, executed by the proper officers of the Association, and shall be delivered to the Unit Owner and shall be recorded in the Public Records of St. Lucie County, Florida.

(c) Approval of Corporate, Business Entity, Fiduciary Owner or Multiple Individuals as a Purchaser. In as much as the Condominium may be used only for residential purposes and neither a corporation, fiduciary or business entity or multiple individuals can occupy a Unit for such use, if the Unit Owner or purchaser of a Unit is a corporation, business entity or multiple owners (other than joint ownership of husband and wife), the approval of ownership by the corporation, fiduciary, business entity or such multiple owners shall be conditioned upon the requirement that a Primary Occupant of the Unit be designated and approved by the Association. The approval of ownership by a Trustee or other holder of legal title for a beneficial owner who is to be the Primary Occupant of a Unit shall also be conditioned upon approval of the Primary Occupant by the Association. Any change in the Primary Occupant of a Unit shall be considered a transfer of title to the Unit which shall be subject to the provisions of this Section 18. The Primary Occupant shall be a natural person who will be the person permitted to occupy the Unit for residential purposes with his or her immediate family. De facto time-sharing of Units shall not be permitted and approval will not be given for the sale of a Unit or an interest in a Unit to multiple persons, such as, e.g. siblings or business associates, who may intend that they and their families split occupancy of the Unit into different time periods during the year.

18.3 Disapproval by Association. If the Association shall disapprove a transfer of ownership of a Unit, the matter shall be disposed of in the following manner:

(a) Sale. If the proposed transaction is a sale, and if the notice of sale given by the Unit Owner shall so demand, then, within twenty (20) days after receipt of such notice and information, the Association shall deliver by hand or certified mail to the Unit Owner, an agreement to purchase said Unit by the Association, or a purchaser approved by the Association who will purchase and to whom the Unit Owner must sell the Unit, upon the following terms:

(i) The price to be paid by the purchaser, to be identified in the agreement, as well as the general terms and conditions of the transaction as to closing costs, shall be that stated in the disapproved contract to sell.

(ii) The purchase price shall be paid in cash.

(iii) The sale shall be closed within thirty (30) days after the delivery or mailing of said agreement to purchase.

(iv) If the Association fails to provide a purchaser upon the demand of the Unit Owner in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, the proposed transaction shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided.

(b) Lease. If the proposed transaction is a lease, the Unit Owner shall be advised of the disapproval in writing, and the lease shall not be made.

(c) Gift, Devise or Inheritance; Other Transfers. If the Unit Owner giving notice has acquired his title by gift, devise or inheritance, or in any other manner, then within twenty (20) days after receipt from the Unit Owner of the notice and information required to be furnished, the Association shall deliver by hand or certified mail to the Unit Owner an agreement to purchase said Unit by the Association or by a purchaser approved by the Association, who will purchase the Unit and to whom the Unit Owner must sell the Unit, upon the following terms:

(i) The sale price shall be the fair market value determined by the agreement, between seller and purchaser, within thirty (30) days from the delivery or mailing of such agreement. In the absence of agreement as to price, the price 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 Unit; and 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 purchaser.

(ii) The purchase price shall be paid in cash.

(iii) A certificate of the Association executed by its President or Vice President and approving the Purchaser shall be recorded in the Public Records of St. Lucie County, Florida, at the expense of Purchaser.

(iv) If the Association fails to provide a purchaser as required by this Declaration, or if a purchaser furnished by the Association shall default in his agreement to purchase, then, notwithstanding the disapproval, such ownership defined by and provided for in this Subsection 18.3(c) shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided, which shall be recorded in the Public Records of St. Lucie County, Florida, at the expense of the Unit Owner.

18.4 Mortgage. No Unit Owner may mortgage his Unit or any interest therein without the approval of the Association, except to family members of the Unit Owner, to the former Owner to secure a purchase money debt, or to an "Institutional Mortgagee". The approval of any other mortgagee may be upon conditions determined by the Association or may be arbitrarily withheld.

18.5 Exceptions. The foregoing provisions of this Section shall not apply to a purchase or transfer by an Institutional Mortgagee or other approved mortgagee which acquires its title as the result of owning a mortgage upon the Unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor or its successor in title or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by an Institutional Mortgagee or other approved mortgagee which so acquires its title. Neither shall such provisions require the approval of a

purchaser who acquires the title to a Unit at a duly advertised public sale with open bidding which is provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale, or tax sale. Further, the provisions of this Section shall not apply to the acquisition of title to a Unit through devise or inheritance by any person who is a natural child or surviving spouse of the immediately preceding Owner of the Unit.

18.6 Non-Discrimination. Notwithstanding anything herein contained to the contrary, the Board of Directors, in exercising its rights provided in this Section, shall not make any decision in a discriminatory manner and no decision shall be made on the basis of race, sex, ethnic origin, nationality, physical handicap or religion, or any other protected class as determined by any federal, state or local law.

18.7 Unauthorized Transaction Any sale, mortgage or lease which is not authorized pursuant to the terms of this Declaration shall be voidable if not approved by the Association.

18.8 Notice of Lien or Suit.

(a) Notice of Lien. A Unit Owner shall give notice to the Association of every lien upon his Unit other than for permitted mortgages, taxes and special assessments within five (5) days after the attaching of the lien.

(b) Notice of Suit. A Unit Owner shall give notice to the Association of every suit or other proceeding which may affect the title to his Unit; such notice to be given within five (5) days after the Unit Owner receives knowledge thereof.

(c) Failure to Comply. Failure to comply with this Section 18.8 will not affect the validity of any judicial sale.

19. **COMPLIANCE AND DEFAULT**. Each Unit Owner and every occupant of a Unit 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 made necessary by his negligence or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent such expense is not met by the proceeds of insurance actually collected in respect of such negligence by the Association.

19.2 Compliance. In the event a Unit Owner or occupant fails to maintain a Unit or fails to cause such Unit to be maintained, or fails to observe and perform all of the provisions 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 thereby, the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to impose any applicable fines and/or to sue in a court of law for damages.

19.3 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 exhibits annexed hereto, or the Rules and Regulations adopted pursuant to said documents, as the

same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorneys' fees (including appellate attorneys' fees).

19.4 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 exhibits annexed hereto, or the Rules and Regulations adopted pursuant to said documents, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.

20. **TERMINATION OF CONDOMINIUM**. The Condominium shall continue until (i) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in this Declaration; or (ii) such time as withdrawal of the Condominium Property from the provisions of the Act is authorized by a vote of Owners owning at least eighty percent (80%) of the applicable interests in the Common Elements. In the event such withdrawal is authorized as aforesaid, the Condominium Property shall be subject to an action for partition by any Unit Owner, mortgagee or lienor as if owned in Common in which event the net proceeds of sale shall be divided among all Unit Owners in proportion to their respective interests in the Common Elements, provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such net proceeds all mortgages and liens on his Unit in the order of their priority. The termination of the Condominium, as aforesaid, shall be evidenced by a certificate of the Association executed by its President and Secretary, certifying as to the basis of the termination, and said certificate shall be recorded in the Public Records of the County.

This Section may not be amended without the consent of the Developer as long as it owns any Unit.

21. **ADDITIONAL RIGHTS OF MORTGAGEES AND OTHERS**. Institutional Mortgagees shall have the right, upon written request to the Association to (a) examine the Condominium documents and the Association's books and records; (b) receive a copy of the Association's financial statement for the immediately preceding fiscal year; (c) receive notices of and attend Association meetings; (d) receive notice of an alleged default in any obligations hereunder by any Unit Owner, on whose Unit such Institutional Mortgagee holds a mortgage, which is not cured within thirty (30) days of notice of default to the Unit Owner; and (e) receive notice of any substantial damage or loss to any portion of the Condominium Property. Any holder, insurer or guarantor of a mortgage on a Unit shall have, if first requested in writing, the right to timely written notice of (i) any condemnation or casualty loss affecting a material portion of the Condominium Property or the affected mortgaged Unit; (ii) a sixty (60) day delinquency in the payment of the Assessments on a mortgaged Unit; (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; (iv) any proposed termination of the Condominium; and (v) any proposed action which requires the consent of a specified number of mortgage holders. If required by the Act, the approval of a majority of Institutional Mortgagees shall be required to effect an amendment to the Declaration which materially affects the right or interest of the mortgagees or otherwise is required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, provided the Institutional Mortgagee's consent shall not be unreasonably withheld.

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 Developer and subsequent Owner(s) of the Land or any part thereof, or interest therein, 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, tenants 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 or 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. COMPLIANCE WITH ZONING. The Association shall at all times comply, and keep the Condominium Property in compliance, with all applicable zoning, land use, drainage, building code and other governmental requirements and shall fully indemnify and hold harmless the Developer and its affiliates for and from all losses, damages, claims and liabilities as a result of the Association's failure to do so. The aforesaid indemnification shall include all attorneys' fees and court costs, regardless of whether suit is brought or any appeal is taken therefrom.

24. DISCLAIMER OF WARRANTIES. DEVELOPER HEREBY DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES AS TO DESIGN, CONSTRUCTION, FURNISHING AND EQUIPPING OF THE CONDOMINIUM PROPERTY, EXCEPT ONLY THOSE SET FORTH IN SECTION 718.203 OF THE ACT. AS TO SUCH WARRANTIES WHICH CANNOT BE DISCLAIMED, AND TO OTHER CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED.

ALL UNIT OWNERS, BY VIRTUE OF THEIR ACCEPTANCE OF TITLE TO THEIR RESPECTIVE UNITS (WHETHER FROM THE DEVELOPER OR ANOTHER PARTY) SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE AFORESAID DISCLAIMED WARRANTIES AND INCIDENTAL AND CONSEQUENTIAL DAMAGES.

25. ARBITRATION OF CLAIMS. In the event that there are any warranty, negligence or other claim ("Claims") against the Developer or any party having a right of contribution from, or being jointly and severally liable with, the Developer, the Claims relating to the design, construction, furnishing or equipping of the Condominium Property shall be adjudicated pursuant to binding arbitration, rather than civil litigation, as permitted by the Florida Arbitration Code (the "Code"), Chapter 682, Florida Statutes, in the following manner:

(a) The party making the Claims (the "Claimant") shall notify the Developer of the Claim, specifying with particularity the nature of each component thereof and providing a true and complete copy of each and every report, study, survey or other document supporting or forming the basis of the Claim(s).

(b) Within thirty (30) days of receipt of the notice of the Claim, the Developer will engage, at its own expense, a duly licensed engineer (the "Arbitrator") to serve as the arbitrator of the Claim pursuant to the Code. Such engineer shall be independent of the Developer and the Claimant, not having any then current business relationship with the Developer or Claimant, other than by virtue of being the Arbitrator. Upon selecting the Arbitrator, the Developer shall notify the Claimant of the name and address of the Arbitrator.

(c) Within thirty (30) days from the date of his appointment, the Arbitrator shall review the Claim(s) and supporting materials, inspect the Condominium Property and all appropriate plans, specifications and other documents relating thereto, and render a report (the "Final Report") to the Developer and the Claimant setting forth, on an item by item basis, his findings

with respect to the Claim(s) and the method of correction of those he finds to be valid. If the Developer so requests, by written notice to the Arbitrator, the Arbitrator will specify the estimated cost of the correction of each of those Claims he finds to be valid and shall offset therefrom costs reasonably attributable to any failure to maintain or mitigate or to any contributory negligence, in all cases, whether chargeable to the Claimant or others.

(d) The Developer shall have one hundred eighty (180) days after receipt of the Final Report in which to (i) correct the Claim(s) found to be valid; or (ii) pay to the Claimant the amount estimated by the Arbitrator to be the cost to correct same after the aforesaid offset.

(e) As to those matters the Developer elects to correct, upon the completion of all corrective work, the Developer will so notify the Arbitrator (with a copy of such notice to the Claimant) and the Arbitrator shall then inspect the corrected items and render a report (the "Remedial Report") to the Developer and the Claimant on whether those items have been corrected. Such procedure shall be repeated as often as necessary until all items have been corrected.

(f) For all purposes, the Final Report and Remedial Report(s) of the Arbitrator will constitute binding and enforceable arbitration awards as defined in Section 682.09 of the Code and any party affected by such reports will have the right to seek the enforcement of same in a court of competent jurisdiction. Moreover, no party will have the right to seek separate judicial relief with respect to warranty disputes as defined above, or to seek to vacate the aforementioned arbitration awards, except in accordance with the Code, and then only upon the specific grounds and in the specified manner for the vacation of such awards as established by Section 682.13 of the Code.

(g) The Arbitrator shall not be liable to the Condominium Association, the Claimant or the Developer by virtue of the performance of his services hereunder, fraud and corruption excepted.

(h) The procedures set forth above shall also be the sole means by which disputes as to Association finances (including, without limitation, the Developer's payment of Assessments, any deficit funding obligations, the handling of reserves and the keeping of accounting records), except that the Arbitrator shall be a Certified Public Accountant who (i) is a member of the Community Associations Institute, and (ii) meets the independence test set forth above.

(i) In the event that there is any dispute as to the legal effect or validity of any of the Claims (e.g., as to standing, privity of contract, statute of limitations or laches, failure to maintain or mitigate, existence of duty, foreseeability, comparative negligence, the effect of disclaimers or the interpretation of this Declaration as it applies to the Claims), such dispute shall be submitted to arbitration, as herein provided, by a member in good standing of the Florida Bar chosen by the Developer, which Arbitrator shall be independent of the Developer and the Claimant as set forth above. In such event, all time deadlines which cannot be met without the resolution of such disputed matters shall be suspended for such time as the Arbitration provided for in this Subsection continues until final resolution.

(j) The prevailing party in any Arbitration hereunder, as determined by the Arbitrator, shall be entitled to all costs and reasonable attorneys' fees.

This section is presently ineffective and unenforceable based upon an Order issued by the Division of Florida Land Sales Condominiums and Mobile Homes (Division). However, the

Division's Order is currently on appeal in the First District Court of Appeal of Florida in the case styled *Department of Business and Professional Regulation, Division of Florida Land Sales, Condominium and Mobile Homes v. Lennar Homes, Inc.*, Case No. 1D03-3020. In the event the First District Court of Appeal of Florida, or another court, reverses the Division's Order, the section entitled "ARBITRATION OF CLAIMS" shall be effective and enforceable and such provision shall have retroactive effect.

26. ADDITIONAL PROVISIONS.

26.1 Notices. All notices to the Association or the Board of Directors required or desired hereunder or under the By-Laws of the Association shall be sent by certified mail (return receipt requested) or by nationally recognized overnight courier service to the Association in care of 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. 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.

26.2 Interpretation. The Board of Directors of the Association shall be responsible for interrupting the provisions hereof and of any of the exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of legal counsel to the Association, or the legal counsel having drafted this Declaration, that any interpretation adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation.

26.3 Mortgagees. Anything herein to the contrary notwithstanding, the Association shall not be responsible to any mortgagee or lienor of any Unit hereunder, and may assume the Unit is free of any such mortgages or liens, unless written notice of the existence of such mortgage or lien is received by the Association.

26.4 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.

26.5 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 therefore, and wherever the signature of the Secretary of the Association is required hereunder, the signature of an assistant secretary may be substituted therefore, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities.

26.6 Governing Law/Venue. 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. Venue shall be in St. Lucie County, Florida.

26.7 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.

26.8 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.

26.9 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.

26.10 Execution of Documents: Attorney-in-Fact. Without limiting the generality of other Sections of this Declaration and without such other Sections limiting the generality hereof, each Owner, by reason of the acceptance of a deed to such Owner's Unit, hereby agrees to execute, at the request of the Developer, all documents or consents which may be required by all governmental agencies to allow the Developer and its affiliates to complete the plan of development of the Condominium Property as such plan may be hereafter amended, and each such Owner further appoints hereby and thereby the Developer as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of such Owner(s), any and all of such documents or consents. This Power of Attorney is irrevocable and coupled with an interest. The provisions of this Section may not be amended without the consent of the Developer.

26.11 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.

26.12 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.

27. SOUTH FLORIDA WATER MANAGEMENT DISTRICT PROVISIONS. Rule 40E-4.091 of the Florida Administrative Code requires that the Declaration of Protective Covenants, Deed Restrictions, Declaration of Condominium or other recorded document setting forth the ASSOCIATION's rules and restrictions (hereinafter referred to as "documents"), contain certain covenants and restrictions. The following language is being inserted to meet the requirements of section Rule 40E-4.091:

(a) The ASSOCIATION hereby accepts responsibility for the operation and maintenance of the surface water management system described in SFWMD District Permit 56-00397-S (the "SFWMD Permit").

(b) The surface water management system and the common areas of the ASSOCIATION are owned or shall prior to recordation of this Declaration be owned by the ASSOCIATION.

(c) The ASSOCIATION is responsible for assessing and collecting fees for the operation, maintenance, and, if necessary, replacement of the surface water management system. Assessments shall be made for the maintenance and repair of the surface water management system by this Association.

(d) Any amendment proposed to this Declaration or the Articles of Incorporation or By-laws of the Association, which would affect the surface water management system, conservation areas or water management portions of common areas shall be submitted to the South Florida Water Management District for review prior to finalization of the amendment. The South Florida Water Management District shall determine if the proposed amendment will require a modification of the environmental resource or surface water management permit. If a permit modification is necessary, the modification must be approved by the South Florida Water Management District prior to the amendment of this document.

(e) Monitoring and maintenance of the mitigation area, described in the SFWMD Permit, shall be the responsibility of the ASSOCIATION. The ASSOCIATION must successfully complete the mitigation and satisfy permit conditions. The success criteria are described in the SFWMD Permit.

(f) The conservation areas are or will be prior to the recording of this Declaration, deeded to the Association as part of the Common Areas. They shall be the perpetual responsibility of the Association and may in no way be altered from their natural or permitted state. Activities prohibited within the conservation areas include, but are not limited to, construction or placing of buildings on or above the ground; dumping, or placing soil or other substances such as trash; removal or destruction of trees, shrubs, or other vegetation-with the exception of exotic/nuisance vegetation removal; excavation, dredging or removal of soil material; diking or fencing; any other activities detrimental to drainage; flood control, water conservation, erosion control, or fish and wildlife habitat conservation or preservation.

(g) The SFWMD Permit is made a part of this document and attached hereto as Exhibit G. Copies of the SFWMD Permit and any future permit actions of the South Florida Water management District ("SFWMD") shall be maintained by the Registered Agent of the ASSOCIATION for the benefit of the ASSOCIATION.

(h) The SFWMD has the right to take enforcement action, including a civil action for an injunction and penalties against the association to compel it to correct any outstanding problems with the surface water management system facilities or in mitigation or conservation areas under the responsibility or control of the association.

(i) The Association shall exist in perpetuity. In the event that the Association is dissolved for any reason, the storm water management system and water management portions of the Common Areas shall be conveyed to local government agency as determined to be acceptable by the SFWMD, or if the local government declines acceptance of such conveyance, the storm water management system and water management portions of the Common Areas shall be dedicated to a similar non-profit corporation.

(j) The registered agent of the Association is required to maintain copies of all further permitting actions for the benefit of the Association.

