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**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM  
OF THE VILLAGE AT TOWNPARK, A CONDOMINIUM**

Kings TownPark Apartments, LLC, a Delaware limited liability company, created the Village at Townpark, a Condominium, by recording the Declaration of Condominium of The Village at Townpark, a Condominium in Official Record Book 2057, Page 3888 of the Public Records of Manatee County, Florida.

Pursuant to Section 718.110(1), *Florida Statutes*, the Declaration is hereby amended and restated in its entirety by the recording of this Amended and Restated Declaration of Condominium of the Village at Townpark, a Condominium (the "Declaration" or "Amended and Restated Declaration"). Nothing herein shall in any way alter the configuration or size of any Condominium Unit or the appurtenances to any Unit, the percentage or proportionate share by which the Owner of a Unit shares the Common Expenses, Common Elements and the Common Surplus as created by the Original Declaration of Condominium amended herein.

THIS IS A SUBSTANTIAL REWORDING OF THE ORIGINAL DECLARATION OF CONDOMINIUM. SEE THE ORIGINAL DECLARATION OF CONDOMINIUM FOR PRIOR TEXT.

**ARTICLE I. INTRODUCTION AND SUBMISSION**

**1.1 The Land.** The lands submitted to this condominium were described in the Original Declaration described above and are more further described in the attached "Exhibit A" (the "Land").

**1.2 Submission Statement.** The Developer submitted the Land for 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 (but excluding all public or private utility installations therein or thereon) to the condominium form of ownership and use in the manner provided for in the Florida Condominium Act as it is amended from time to time. 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 Name.** The name by which this condominium is to be identified is THE VILLAGE AT TOWNPARK, a Condominium (hereinafter called the "Condominium").

**ARTICLE II. 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 Florida Condominium Act (Chapter 718 of the Florida Statutes) as it is amended from time to time.

**2.2 "Articles" or "Articles of Incorporation"** mean the Articles of Incorporation of the Association, as amended from time to time, attached hereto as Exhibit C.

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

**2.4 "Association" or "Condominium Association"** means THE VILLAGE AT TOWNPARK CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, the 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.

**2.6 "Board" or "Board of Directors"** means the board of directors and the members of the board of directors, from time to time, of the Association.

**2.7 "Building"** means the structure(s) in which the Units and the Common Elements are located, regardless of the number of such structures, which are located on the Condominium Property.

**2.8 "By-Laws"** mean the By-Laws of the Association, as amended from time to time, attached hereto as Exhibit D.

**2.9 "Common Elements"** mean and include.

(a) The portion of the Condominium Property which are not included within the Units.

(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 Building.

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

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

**2.10 "Common Expenses"** mean all expenses incurred by the Association for the Condominium. For all purposes of this Declaration, "Common Expenses" shall also include all reserves required by the Act or otherwise established by the Association, regardless of when reserve funds are expended, but shall not include any other separate obligations of individual Unit Owners. For all purposes of this Declaration, "Common Expenses" shall also include: (i) all reserves required by the Act or otherwise established by the Association, regardless of when

reserve funds are expended; (ii) the cost of a master antenna television system or duly franchised cable television service obtained pursuant to a bulk contract; and (iii) if applicable, costs relating to reasonable transportation services, insurance for directors and officers, road maintenance and operation expenses, and in-house communications and surveillance systems.

**2.11 "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.

**2.12 "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.

**2.13 "Condominium Property"** means the land, improvements and other property described in Section 1.2 hereof, subject to the limitations thereof and exclusions therefrom.

**2.14 "County"** means the County of Manatee, State of Florida.

**2.15 "Declaration" or "Declaration of Condominium"** means this instrument, as it may be amended from time to time.

**2.16 "Developer"** means Kings TownPark Apartments, LLC, a Delaware limited liability company, its successors and such of its assigns.

**2.17 "Dispute"** for purposes of Section 19.1, means any disagreement between two or more parties as described in Section 718.1255 of the Act.

**2.18 "Division"** means the Division of Florida Condominiums, Timeshares, and Mobile Homes, of the Department of Business and Professional Regulation, State of Florida.

**2.19 "First Mortgagee"** means any person or entity that is the holder of a first mortgage lien on a Unit.

**2.20 "Improvements"** mean all structures and artificial changes to the natural environment located on the Condominium Property including, but not limited to, the Buildings.

**2.21 "Institutional First 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, holding a first mortgage on a Unit or Units or Condominium Property. A "**Majority of Institutional First Mortgagees**" shall mean and refer to Institutional First Mortgagees of Units to which at least fifty-one percent (51%) of the voting interests of Units subject to mortgages held by Institutional First Mortgagees are appurtenant.

**2.22 "Limited Common Elements"** mean those Common Elements the use of which is reserved to a certain Unit or Units to the exclusion of other Units, as specified in this Declaration. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided.

**2.23 "Primary Institutional First Mortgagee"** means the Institutional First Mortgagee which owns, at the relevant time, Unit mortgages securing a greater aggregate indebtedness than is owed to any other Institutional First Mortgagee.

**2.24 "Special Assessment"** means any Assessment levied against Unit Owners other than Assessments required by a budget adopted annually.

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

**2.26 "Unit Owner" or "Owner of a Unit" or "Owner"** means the Owner of a Condominium Parcel.

**2.27 "Voting Interest"** means the voting rights of the Association members pursuant to the Articles and By-Laws.

### **ARTICLE III. DESCRIPTION OF THE CONDOMINIUM**

**3.1 Identification of Units.** The Land has constructed thereon the Buildings containing two hundred seventy-two (272) Units. Each such Unit is identified by a separate designation. The designation of each of such Units is set forth on Exhibit A attached hereto. Exhibit A consists of a survey of the Land, a graphic description of the Improvements located thereon, including, but not limited to, the Building in which the Units are located, and a plot plan thereof. Said Exhibit A, together with this Declaration, is sufficient in detail to identify the Common Elements and each Unit and their relative locations and dimensions. 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 Limited 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.

**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 unfinished lower surface of the ceiling (which will be deemed to be the ceiling of the second story if the Unit is a two-story Unit, provided that in two-story Units where the lower boundary extends beyond the upper boundary, the upper boundary shall include that portion of the ceiling of the lower floor for which there is no corresponding ceiling on the upper floor directly above such bottom floor ceiling).

(ii) **Lower Boundaries.** The horizontal plane of the unfinished upper surface of the floor of the Unit (which will be deemed to be the floor of the first story if the Unit is a two-story Unit), provided that in two-story Units where the upper boundary extends beyond the lower boundary, the lower boundary shall include that portion of the floor of the upper

floor for which there is no corresponding floor on the bottom floor directly below the floor of such top floor.

(iii) **Interior Divisions**. Except as provided in subsections (i) and (ii) above, no part of the floor of the top floor, ceiling of the bottom floor, stairwell adjoining the two floors or nonstructural interior walls shall be considered a boundary of the Unit.

(b) **Perimetrical Boundaries**. The perimetrical boundaries of the Unit shall be the vertical planes of the unfinished 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, doors, bay windows and skylights, such boundaries shall be extended to include the windows, doors and other fixtures located in such apertures, including all frameworks, window casings and weather stripping thereof. Exterior surfaces made of glass or other transparent material, and the exteriors of doors, all wires, conduits, ducts, vents, concrete joists and other such facilities serving more than one Unit located within any walls, including divider walls, or above the nonstructural acoustical ceiling lying below the upper boundary of the Unit, 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 survey of the Units set forth as Exhibit A hereto shall control in determining the boundaries of a Unit, except that the provisions of Section 3.2(c) above shall control unless specifically depicted otherwise on such survey. The air-conditioning closets and air handlers and condensing units located therein shall be part of the Unit they serve.

(e) **Property Excluded from Units**. A Unit shall not be deemed to include foundations, columns, girders, beams, supports, exterior walls, interior load bearing walls, pillars, underlying floors, essential and permanent installations and equipment for power, lights, and exhaust fans, and all pipes, conduits, ducts, vents and other service and utility lines which are utilized for, serve, pass through more than one Unit or the Common Elements.

**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:

(a) **Patios, Balconies and Terraces, and Lanais**. Any patio, balcony, terrace or lanai, (and all improvements thereto) as to which direct and exclusive access shall be afforded to any particular Unit or Units to the exclusion of others shall be a Limited Common Element of such Unit(s). The Association shall be responsible for the cost of maintenance of the structural and mechanical elements of any such Limited Common Elements, with the owner of the Unit to which they are appurtenant to be responsible for the general cleaning, plant care and the upkeep of the appearance of the area. Any repair or replacement of damaged screening is the responsibility of the Owner. Such repair or replacement must conform to the standards as set by the Board of Directors.

(b) **Miscellaneous Areas, Equipment**. Any fixtures or equipment located not within a Unit (e.g., an air conditioning compressor or hot water heater) serving a Unit or Units exclusively and any area upon/within which such fixtures or equipment are located shall be Limited Common Elements of such Unit(s).

(c) **Detached and Attached Garages.** The detached garages shown on Exhibit A of the Declaration that have been assigned to a Unit shall be Limited Common Elements of the Unit to which it is assigned. A Unit Owner may assign the Limited Common Element detached garage appurtenant to his Unit to another Unit by written instrument delivered to (and to be held by) the Association provided, however, that no Unit may have more than one garage either detached or attached to the Unit. Upon making such assignment, the Limited Common Element so assigned shall become an appurtenance to the Unit(s) and shall pass with title thereto regardless of whether or not specifically referenced in the deed or other instrument of conveyance of the Unit. The Association will facilitate such assignments through the Association's attorney who shall prepare and file any and all necessary documents, but the Unit Owner shall bear all costs and fees related thereto. Maintenance of the attached or detached garage assigned to owners shall be as follows:

(i) The Association shall maintain, as a common expense, the structural portions of the detached and attached garage and shall be responsible for the maintenance of the exterior appearance of the detached and attached garage, limited to cleaning and painting the exterior of the garage door.

(ii) The Owner shall maintain, at Owner's expense, the interior of the detached and attached garage and shall maintain, repair, and replace any and all hardware associated with locks, electronic door openers and door tracks, etc., and the Owner shall keep the interior in a clean and sanitary condition. The owner shall be responsible for any and all maintenance to the garage door required to keep the door functioning as designed.

(iii) If the Owner fails to maintain the detached and attached garage in accordance with this Declaration, the Association shall have the right to perform the necessary maintenance and assess all costs incurred against the Owner in accordance with the assessment provisions contained in this Declaration and the Condominium Act.

(d) **Cooling Tower and Other Equipment.** A cooling tower, air conditioning equipment or other equipment serving one or more but not all Units shall be a Limited Common Element of the Unit(s) so served, with the Association to maintain such equipment at the sole cost and expense of the Unit Owner(s) served by said equipment. The cost of maintaining said equipment shall be divided equally among the Units served by said equipment. In the event that physical changes in the Building result in additional Units being served by such equipment or, in the alternative, Units ceasing to be so served, then the equipment shall be a Limited Common Element appurtenant to the Units added and shall cease to be one to the Units deleted.

(e) **INTENTIONALLY LEFT BLANK.**

(f) **Other.** Any other portion of the Common Elements which, by its nature, cannot serve all Units but serves one or more Units (other than exterior staircases and walkways not labeled as Limited Common Elements on Exhibit A hereto) shall be deemed Limited Common Elements of the Units served. In the event of any doubt or dispute as to whether any portion of the Common Elements constitutes Limited Common Elements or in the event of any question as to which Units are served thereby, a decision shall be made by the Board of Directors and shall be binding and conclusive when so made.

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

(a) **Support.** Each Unit, the Building and Improvements shall have an easement of support and of necessity under and upon, and shall be subject to an easement of support and necessity in favor of all other Units, the Common Elements, and any other structure or improvement which abuts any Unit, the Building and the Improvements.

(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 inspect same, to maintain, repair or replace the pipes, wires, ducts, vents, cables, conduits and other utility, 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; provided such right of access, except in the event of an emergency, shall not unreasonably interfere with the Unit Owner's permitted use of the Unit, and except in the event of an emergency, entry shall be made on not less than one (1) days' notice (which notice shall not, however, be required if the Unit Owner is absent when the giving of notice is attempted). Drainage systems on the Condominium Property, if any, shall be maintained continuously in good condition by the Association and easements are granted hereby over all Units in favor of all Owners and the Association with respect thereto.'

(c) **Encroachments.** If (a) any portion of the Common Elements encroaches upon any Unit; (b) any Unit (or Limited Common Element appurtenant thereto) encroaches upon any other Unit or upon any portion of the Common Elements (c) any Improvements encroach upon Common Elements; (d) any Common Elements or "improvements" of another condominium created within the complex encroach upon the Condominium Property; or (e) 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) or 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 or common areas, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of same so long as the Improvements or the relevant "improvements" of another condominium within the complex shall stand.

(d) **Ingress and Egress.** A non-exclusive easement in favor of each Unit Owner, resident of the Condominium, their guests and invitees and the Association and its employees and agents 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 subparagraph (d) shall be encumbered by any leasehold or lien other than those on the Condominium. Any such lien encumbering such easements (other than those on Condominium) automatically shall be subordinate to the rights of Unit Owners and the Association with respect to such easements.

(e) **Additional Easements.** The Association, on its behalf and on behalf of all Unit Owners (each of whom hereby appoints the Association as its attorney-in-fact for this purpose), each 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.

(f) **Support of Adjacent Structures.** In the event that any structure(s) is constructed so as to be connected in any manner to the Building, then there shall be (and there is hereby declared) an easement of support for such structure(s) as well as for the installation, maintenance, repair and replacement of all utility lines and equipment serving the adjacent structure which are necessarily or conveniently located within the Condominium Property (provided that the use of this easement shall not unreasonably interfere with the structure, operation or use of the Condominium Property or the Building).

(g) **Divider Walls.** The wall separating the Unit of one Owner from the Unit of a vertically or horizontally adjoining Owner shall be referred to as a "divider wall". A divider wall shall not be removed or constructed by an Owner, except as provided in this subsection 3.4(g). In the event a Unit Owner acquires an adjacent Unit and a divider wall is no longer necessary to completely separate the adjoining Units, the Owner may remove the divider wall or construct or cause to be constructed a doorway or passageway between the adjoining Units (and an easement is hereby reserved and granted for such purpose) but only after having obtained all required governmental approvals, approval of the Board, and has complied with all reasonable restrictions imposed by the Board. No such divider wall removal or doorway/passageway construction shall be commenced before providing an application to the board to request approval and architectural review, and before receiving the advance written approval of the Board. An owner wishing to make such a change shall provide an application for approval along with a complete set of plans and specifications and any other information reasonable required by the Board in order for the Board to make a thorough review to ensure compliance with this Declaration. The owner agrees to pay an application fee to the fullest extent allowed by law to cover any attorney's fees, and fees incurred by the Board in obtaining the advice of a licensed contractor or architect deemed necessary by the Board to complete its review and determine whether the proposed plans comply with the provisions of the Declaration and the Association's standards. All construction must comply with the plans submitted and approved by the Board. The removal of the divider wall or the construction of such doorway or passageway shall be at the sole cost and expense of the Owner performing same and such removal or construction shall not diminish, or in any way impair, the structural integrity or soundness of the Building. When title to adjoining Units (which do not then share a complete divider wall) shall vest in two individuals or entities who thereupon become vertically or horizontally adjoining Unit Owners, then the Owners of such adjoining Units, acting together, must construct, sharing the costs and expenses therefor equally, a divider wall to completely or partially separate said adjoining Units.



A divider wall may not be constructed or erected, however, until the review (at the expense of the Unit Owner) and consent of the Association and until all governmental approvals: as aforesaid, have been obtained. Any such construction shall be effected at the expense of the Owner(s) performing same and in accordance with the plans and specifications for construction. In no event may a divider wall be constructed if the structural soundness of the Building may in any way be affected thereby. Adjoining Units which share a divider wall shall have a cross-easement of support in the divider wall. Each Owner shall be responsible for any damage caused to a divider wall by its negligent or intentional acts or the negligent or intentional acts of its employees or agents, and the cost of said repair shall be the specific obligation of that Owner.

#### **ARTICLE IV. RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS**

The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit, and the exclusive right, or shared right as applicable, 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.

#### **ARTICLE V. OWNERSHIP OF COMMON ELEMENTS AND COMMON SURPLUS AND SHARE OF COMMON EXPENSES: VOTING RIGHTS.**

**5.1 Percentage Ownership and Shares.** The undivided interest in the Common Elements-Common Surplus, and the percentage share of the Common Expenses, appurtenant to each Unit, is set forth in Exhibit B attached hereto and made a part hereof. All persons are hereby notified that such percentage shares were calculated in accordance with approximate adjusted square footage computations of the Units in relation to the total square footage of all of the Units.

**5.2 Voting.** 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 Articles of Incorporation of the Association. Each Unit Owner shall be a member of the Association.

#### **ARTICLE VI. AMENDMENTS**

Except as elsewhere provided herein, amendments to this Declaration may be effected as follows:

**6.1 By The Association.** Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors of the Association or by not less than one-third (1/3) of the members of the Association. Except as elsewhere provided, approvals must be by affirmative vote of at least a majority of the Unit Owners voting in person or by proxy at a membership meeting held for such purpose. For further information regarding proxy voting,

please refer to the Association's By-laws.

**6.2 Mortgagee's Consent.** Consent of holders of liens on any portion of the Condominium Property or any unit shall not be required to modify or amend this Declaration of Condominium, provided, however, that the consent of at least fifty-one percent (51%) of all institutional mortgagees shall be required for amendments for the following purposes:

- (a) any change in the percentage of ownership of the common surplus;
- (b) any change in the percentage of participation in the common expenses or assessments;
- (c) any change in the voting rights.

In addition, such advance mortgagee approval shall be required for any amendment to the Declaration or for any other action that results in termination of the condominium; partition or subdivision of any unit; abandonment, partition, subdivision, encumbrance, sale or transfer of the common elements. Such consent shall not be unreasonably withheld.

**6.3 Execution and Recording.** An amendment shall be evidenced by a certificate of the Association which shall include recording data identifying the Declaration and shall be executed with the same formalities required for the execution of a deed. An amendment of the Declaration is effective when the amendment and the applicable certificate are properly recorded in the public records of the County.

**6.4 Proviso Regarding Material Amendments.** No amendment shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to any Unit; or change the percentage by which the Owner of a Unit shares the Common Expenses and owns the Common Elements and Common Surplus, unless the amendment is approved by a vote of seventy-five percent (75%) of the total Voting Interests of the Association, including the Owner(s) of the Unit(s) affected by the change, and any record lien holder(s) of such affected Unit, unless the amendment is required by any governmental entity, in which event no such approval is required. The acquisition of property by the Association, material alterations or substantial additions to such property or the Common Elements by the Association and installation, replacement and maintenance of approved hurricane shutters, if in accordance with the provisions of this Declaration, shall not be deemed to constitute a material alteration or modification of the appurtenances of the Units, and accordingly, shall not constitute a Material Amendment.

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 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.

## **ARTICLE VII. MAINTENANCE AND REPAIRS.**

**7.1 Units.** All maintenance, repairs and replacements of, in or to any Unit, structural or nonstructural, ordinary or extraordinary, including, without limitation, maintenance, repair and

replacement of screens, screen enclosures, windows, the entrance 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 the Limited Common Elements 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 and Limited Common Elements.** Except to the extent (i) expressly provided to the contrary herein, or (ii) proceeds of insurance are made available therefor, all maintenance, repairs and replacements in or to the Common Elements and Limited Common Elements (except as expressly provided to the contrary with respect to cooling tower, air conditioning equipment and other equipment, which service a particular Unit or Units, but not all Units) shall be performed by the Association and the cost and expense thereof shall be charged to all Unit Owners as a Common Expense, except to the extent arising from or necessitated by the negligence, misuse or neglect of specific Unit Owners, in which case such cost and expense shall be paid solely by such Unit Owners. Any Unit Owner who causes damages to any part of the Common Elements or Limited Common Elements shall indemnify and hold the Association and Developer harmless from all costs, expenses and claims in connection with such damage.

**7.3 Specific Unit Owner Responsibility.** Except as expressly provided to the contrary herein, 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 Owners, individually, and not the Association, without regard to whether such items are included within the boundaries of the Units, provided that if not within the boundaries of a Unit, same must constitute or lie within a Limited Common Element appurtenant thereto.

## **ARTICLE VIII.**

### **ADDITIONS, ALTERATIONS OR IMPROVEMENTS BY THE ASSOCIATION**

The Board of Directors shall have the authority, without Unit Owner approval, to approve of and make capital or material additions, alterations or improvements to the Common Elements (as distinguished from repairs and replacements required by law and/or the Association documents) provided such addition, alteration or improvement does not exceed 25% of the Association's budget. Any addition, alteration, or improvement that exceeds 25% of the Association's budget requires the approval of a majority of the members present and voting, in person or via proxy, at a duly noticed members meeting called for such purpose. Notwithstanding the foregoing, no ownership approval is necessary for any expense when the expense is incurred pursuant to the Association's obligation to maintain, repair, replace, or protect the Association's common elements as required by law. The Board shall have the authority to enhance security for the community, including but not limited to the installation of security cameras on the common elements, without requiring unit owner approval. 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 required to be made beyond that year.

## **ARTICLE IX. ADDITIONS, ALTERATIONS OR IMPROVEMENTS BY UNIT OWNER**

**9.1 Common Elements.** No Unit Owner shall make any addition, alteration or improvement in or to the Common Elements, or any Limited Common Element or structural change in his Unit without the prior written consent of the Board of Directors. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all Association standards, and any applicable 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. The Board shall have the authority to adopt application and approval procedures regarding such alterations, and shall have the authority to adopt standards, require use of licensed and insured contractors for certain alterations determined by the Board, adopt regulations regarding permissible work periods, and adopt other policies and procedures designed to protect the Unit Owners, the Association's Common Elements and other Units. 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 Storm Shutters.** Notwithstanding any provision to the contrary, the Board of Directors of the Association shall adopt and approve a model, style, specifications, and color of storm shutter as a standard storm shutter for use in the Condominium. The Board shall also have the authority to adopt standards for impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection. All storm shutters must comply with the specifications adopted by the Board, which shall include color, style, and other factors deemed relevant by the Board. The Board shall have the authority to adopt procedures, rules and regulations regarding the length of time the hurricane or storm protection may cover the protected doors and/or windows. The unit owners are responsible for the costs of installation, maintenance repair, replacement, and removal of such storm protection. Storm shutters are not permitted to be stored on or in the Unit's lanai area.

## **ARTICLE X. INTENTIONALLY LEFT BLANK**

## **ARTICLE XI. 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 By-Laws and Articles of Incorporation of the Association, and rules and regulations adopted by the Board from time to time, as amended from time to time. 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 the 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 as otherwise may be permitted by the Condominium Act, 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. The Board shall have the authority to require that all owners provide the Association with a key to the Unit for such necessary or emergency entry. In addition, at the sole discretion of the Board, the Association shall have the right to enter into abandoned units (as defined by the Condominium Act) to inspect the unit and adjoining common elements, make repairs to the unit or to the common elements serving the unit, as needed, repair the unit if mold or other deterioration or infestation is present, turn on the utilities for the unit, or otherwise maintain, preserve, or protect the unit and adjoining common elements, and expenses incurred by the Association in such abandoned units shall be deemed an assessment against the unit and may be collected through lien and/or foreclosure proceedings. The Association may petition the court to appoint a receiver to lease out an abandoned unit for the benefit of the Association to offset against the rental income the Association's costs and expenses of maintaining, preserving, and protecting the unit and the adjoining common elements, including the costs of the receivership and all unpaid assessments, interest, administrative late fees, costs, and reasonable attorney's fees.

**(b)** The power to make and collect Assessments (including Special Assessments and Individual Assessments against Units as further described herein) 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 practices, 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 management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules 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 Condominium Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association. Any contract as aforesaid shall be entered into only after any competitive bidding requirements to the extent required by the Act have been met.

**(e)** The power to borrow money, execute promissory notes and other evidences of indebtedness provided that such actions are approved by a majority of the entire membership of the Board of Directors. No mortgages shall be placed on any property owned by the Association without the approval of a majority of the Units represented at a duly noticed members meeting at which a quorum has been attained.

**(f)** The power to charge a fee for the exclusive use of any Common Elements or Association Property by an Owner.

**(g)** The power to adopt and amend rules and regulations concerning the details of the operation and use of the condominium property, including Common Elements and Units.

**(h)** The Association, when authorized by a majority of the Unit Owners present and voting at a members' meeting at which a quorum has been attained, shall have the power to acquire, convey, lease and encumber personal and real property, whether or not contiguous to

the lands of the Condominium. The expenses of ownership (including the expense of making and carrying any mortgage related to such ownership), rental, membership fees, operation, replacements and other expenses and undertakings in connection therewith shall be Common Expenses.

(i) The power to employ personnel (part-time or full-time), and if part-time, such personnel may be employees of other condominium associations and allocation of their compensation in all cases be equitably, apportioned among the associations for which employee provides services.

(j) All of the powers which a corporation not for profit in the State of Florida may exercise pursuant to this Declaration, the Articles Incorporation, the By-Laws, the Rules and Regulations, Chapters 607 and 617, Florida Statutes and the Act (where applicable), in all cases except as expressly limited or restricted in the Act.

(k) Subject to the limitations provided in this subparagraph, the power to sue and defend lawsuits.

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 control over the Condominium, consistent with the Act.

**11.2 Limitation Upon 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 of whether or not same shall have been approved by the Association pursuant to Section 9.1 hereof.

**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 his 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 law.

**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. Notwithstanding anything to the contrary, all meetings of the Board of Directors shall be properly noticed and open to all members of the Association, as provided for in the By-Laws.

## **ARTICLE XII. DETERMINATION OF COMMON EXPENSES AND FIXING OF ASSESSMENTS THEREFOR**

**12.1** 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 Assessment 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, or applicable rules and regulations 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 Declaration and the By-Laws.

**12.2** Whether owner or tenant occupied or vacant, unit owners are obligated to pay all charges and expenses related to utilities that are provided by the Association and directly metered to or otherwise attributable to the particular unit. In the event that an owner fails to pay costs and expenses in relation to such services or utilities provided to the unit by the Association, such costs and expenses shall be an Individual Assessment against the unit, subject to late fees, interest, and lien and foreclosure rights as any other type of assessment described in the Association's governing documents.

## **ARTICLE XIII. COLLECTION OF ASSESSMENTS**

**13.1 Liability for Assessments.** A Unit Owner, regardless of how title is acquired, including a purchaser at a foreclosure sale or by deed in lieu of foreclosure, shall be liable for all Assessments coming due while he is the Unit Owner. Except as otherwise provided by law or herein, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments and all other monetary amounts due 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.

The Board shall have the authority to impose Special Assessments for non-budgeted capital expenses or other common expenses that are non-recurring or unforeseen in nature. Any fee or cost chargeable to a unit, such as for water or other utility expenses attributable to a unit, shall be an Individual Assessment against the unit and collectible as any other assessment.

**13.2 Default in Payment of Assessments for Common Expenses.** Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at a rate of up to 18% annually as determined by the Board, unless a higher rate is allowed by law and approved by the Board, from the date due until paid and shall be subject to an administrative late fee (in addition to such interest) in an amount not to exceed the greater of \$25.00 or five percent (5%) of each delinquent installment, unless a higher late fee is allowed by law and approved by the Board.

(a) The Association has a lien on each Condominium Parcel for any unpaid Assessments on such Parcel, with interest and for reasonable attorney's fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien. The lien is effective from and shall relate back to the recording of the Original Declaration of Condominium, stating the description of the Condominium Parcel, the name of the record Owner, the amount due, the due dates and the name and address of the Association or the Association's agent. 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.

(b) As an additional right and remedy of the Association, upon the filing of a claim of lien following a default in the payment of Assessments as aforesaid, the Association may declare all Assessment installments due for the remainder of the budget year in which the claim of lien was filed to be accelerated and shall thereupon be immediately due and payable. In the event that the amount of such installments changes during the twelve (12) month period, the Unit Owner or the Association, as appropriate, shall be obligated to pay or reimburse to the other the amount of increase or decrease within ten (10) days of same taking effect.

(c) If a unit owner is delinquent for more than ninety (90) days in paying any monetary obligation due to the Association, unless a shorter time frame is provided by the Condominium Act, the Association may suspend the right of a unit owner or a unit's occupant, tenant, licensee, or invitee to use common elements, common facilities, or any other Association property until the monetary obligation is paid. The suspension does not apply to limited common elements intended to be used only by that unit, common elements needed to access the unit, utility services provided to the unit, parking spaces, or elevators.

(d) The Association may also suspend the voting rights of a member due to



nonpayment of any monetary obligation due to the Association which is more than ninety (90) days delinquent, unless a shorter time frame is set forth in the Condominium Act, and the suspension shall end upon full payment of all obligations currently due or overdue the Association. A voting interest allocated to a unit which has been suspended by the Association may not be counted towards the total number of voting interests necessary to constitute a quorum, the number of voting interests required to approve membership action under the Condominium Act or the Association's governing documents, unless permitted by the Condominium Act.

(e) No hearing shall be required for suspensions resulting from delinquent accounts, but the suspensions must be approved by the Board at a duly noticed meeting of the Board.

(f) Upon Board approval of a suspension, the Association must notify the unit owner and, if applicable, the unit's occupant, licensee, tenant or invitee by mail or hand delivery.

(g) In the event that a unit owner is delinquent in paying any monetary obligation due to the Association, the Association may demand that the tenant pay its rent directly to the Association, pursuant to procedures set forth in the Condominium Act and as may otherwise be provided herein.

**13.3 Notice of Intention To Foreclose Lien.** No foreclosure judgment may be entered until the Association provides all written notices required by the Act. 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 attorney's 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 a reasonable rental for the Unit. If the Unit is rented or leased during the pendency of the foreclosure action, the Association is entitled to the appointment of a receiver to collect the rent. The expenses of such receiver shall be paid by the party which does not prevail in the foreclosure action.

**13.5 First Mortgagees.** The liability of a First Mortgagee, or its successor or assignees, who acquires title to a Unit by foreclosure or by deed in lieu of foreclosure for the unpaid Assessments (or installments thereof) or other monetary obligations that became due prior to the First Mortgagee's acquisition of title is limited to the amounts set forth in the Condominium Act as it may be amended from time to time.

As to a Unit acquired by foreclosure, the limitations set forth above shall not apply unless the First Mortgagee joined the Association as a defendant in the foreclosure action and otherwise complied with the requirements of the Act.

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

Notwithstanding anything to the contrary set forth in this section 13.5, no First Mortgagee will be relieved from the obligation of paying an Assessment, whatever the amount, if such Assessment was secured by a recorded lien on the Unit prior to the recording of the First Mortgagee's Mortgage on the Unit.

### **13.6 INTENTIONALLY LEFT BLANK**

**13.7 Certificate of Unpaid Assessments.** Within fifteen (15) days after a written request by a Unit Owner or mortgagee of a Unit, or as otherwise may be required by the Act, 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, and the Association has the right to charge a reasonable fee for such certificate. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.

**13.8 Installments.** Regular Assessments shall be collected monthly or quarterly, in advance, as determined by the Board of Directors.

**13.9 Application of Payments.** Any payments received by the Association from a delinquent Unit Owner shall be applied first to any interest accrued on the delinquent installment(s) as aforesaid, then to any costs and reasonable attorneys' fees incurred in collection and then to the delinquent and any accelerated Assessments. The foregoing shall be applicable notwithstanding any purported accord and satisfaction, restrictive endorsement, designation or instruction placed on or accompanying a payment.

## **ARTICLE XIV. 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 copy of each insurance certificate evidencing such policy, and all endorsements thereto, shall be furnished by the Association upon request to each Institutional First 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 to obtain 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.

(f) **Insurance Trustee**. The Board of Directors of the Association shall have the authority to appoint an Insurance Trustee hereunder. Fees and expenses of any Insurance Trustee are Common Expenses. If an Insurance Trustee is not appointed, the Board shall have the authority to act as Insurance Trustee.

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

(a) **Casualty**. The Association shall obtain adequate property insurance for full insurable value, replacement cost, or similar coverage on all portions of the condominium property as originally installed or replacement of like kind and quality, in accordance with the original plans and specifications except as limited by law or described below (the "Insured Property"). Such coverage shall be based on the replacement cost of the property as determined by an independent insurance appraisal or update of a prior appraisal, and must be determined at least once every thirty-six (36) months unless otherwise permitted by law and determined by the Board. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association, which shall be consistent with industry standards and prevailing practice for similar associations. Such coverage shall afford protection against:

(i) **Loss or Damage by Fire and Other Hazards** covered by a standard extended coverage endorsement: and

(ii) **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.

Notwithstanding the foregoing, the following items shall be excluded from the coverage described above, unless otherwise elected by the Association: (i) all wall, floor and ceiling coverings within Unit, (ii) all fixtures and furniture, appliances, window treatments and hardware, equipment other personal property owned, supplied installed by Unit Owners or tenants or subtenants thereof, (iii) all alterations, capital improvements and betterments made by Unit Owners, tenants or subtenants and (iv) to the extent required by applicable law, electrical fixtures, water heaters and built-in cabinets, all of which are located within a Unit and are the repair/replacement responsibility of the Unit Owner (or its tenant or subtenant).

ALL OWNERS, MORTGAGEES, OCCUPANTS OF UNITS AND OTHER AFFECTED PARTIES. ARE HEREBY ADVISED THAT IT MAY NOT BE ECONOMICALLY FEASIBLE OR OTHERWISE POSSIBLE TO INSURE THE IMPROVEMENTS FOR THEIR FULL REPLACEMENT VALUE AS A RESULT OF THE APPLICABILITY OF ZONING OR BUILDING CODES. ACCORDINGLY, NEITHER THE ASSOCIATION NOR ANY OFFICER OR

DIRECTOR THEREOF SHALL BE LIABLE TO ANY PARTY WHATSOEVER IN THE EVENT OF A CASUALTY LOSS TO THE BUILDING WHICH EXCEEDS THE COVERAGE AFFORDED BY REASONABLY AVAILABLE INSURANCE.

(b) **Liability**. Comprehensive general - public liability and automobile 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 \$2,000,000 for each accident or occurrence, \$300,000 per person and \$100,000 property damage, and with a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa. The Association may also obtain and maintain liability insurance for its directors and officers and for the benefit of the Association's employees.

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

(d) **Flood Insurance** covering the Common Elements, Association Property and Units if required by the Primary Institutional First Mortgagee or FNMA/FHLMC, or if the Association so elects.

(e) **Fidelity Insurance** or Bonding shall be maintained by the Association for all persons who control or disburse funds of the Association (including but not limited to those individuals authorized to sign checks on behalf of the Association, and the President, Secretary, and Treasurer of the Association), and must cover the maximum funds that will be in custody of the Association or its management agent at any one time.

(f) **Association Property**. 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. 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) to pay only a fraction of any loss in the event of coinsurance or if other insurance carriers have issued coverage upon the 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 act 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.

**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 insured, 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 as may be required by the Act.

**14.4 Premiums**. Premiums upon insurance policies purchased by the Association

shall be paid by the Association as a Common Expense, except that the costs of fidelity bonding for any management company employee may be paid by such company pursuant to its contract with the Association. Premiums may be financed in such manner as the Board of Directors deems appropriate.

**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 shall 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 or one or more of the Directors or Officers of the Condominium Association. 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, 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 paragraph (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 of a Unit 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 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 in the same percentages as their ownership of

the common elements, with 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 First Mortgagees in an amount sufficient to pay off 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, nor casualty or theft loss to the contents of an Owner's Unit. 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 Presumption as to Damaged Property.** In the event of a dispute or lack of certainty as to whether damaged property constitutes a Unit(s) or Common Elements, such property shall be presumed to be Common Elements.

## **ARTICLE XV.**

### **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.

However, the Owners may terminate the condominium in accordance with Article XX of this Declaration and the Condominium Act if the Owners determine that they do not wish to proceed with repair and restoration of the damaged property. Absent a termination, the Board shall proceed with the prompt repair and restoration of the property in accordance with the Declaration.

Whenever in this Section the words "promptly repair" are used, it shall mean that repairs are to begin not more than sixty (60) 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 ninety (90) days after the Insurance Trustee (if appointed) notifies the Board of Directors and the Unit Owners that such proceeds of insurance are insufficient to pay the estimated costs of such work, provided there are no circumstances preventing the prompt repair required by this provision, and in such event the repairs shall be performed as soon as reasonably practicable. 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 the Building or the Optional Property, by the Owners of not less than 80% of the applicable interests in the Common Elements, as well as the Owners of all Units and other portions of the Optional Property (and their respective mortgagees) must approve the plans 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 Estimate of Costs.** Before making a determination as whether or not to reconstruct or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

(a) **Association.** The Association shall hold the sums paid upon Assessments made by the Association in order to provide funds for payment of the costs of reconstruction and repair which are the responsibility of the Association and disburse the same in payment of such costs.

(b) **Disbursement.** The proceeds of insurance collected on account of a casualty, and the sums 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:

(i) **Association - Lesser Damage.** If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is less than \$100,000, 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 First Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided below for the reconstruction and repair of major damage.

(ii) **Association - Major Damage.** If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is more than \$100,000, then the construction fund shall be disbursed in payment of such costs in the manner contemplated by subparagraph (i) 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.

(iii) **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 underinsured), 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 Unit Owners and their mortgagees jointly as elsewhere herein contemplated, in the same percentages as their ownership of the common elements.

(iv) **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 Unit Owners in the manner elsewhere stated in the same percentages as their ownership of the common elements; except, however, that the 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.

(v) **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.

## **ARTICLE XVI. 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 awards 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, a special Assessment shall be made against a defaulting Unit Owner in the amount of his award, or the amount of that award shall be set off against the sums hereafter made payable to that Owner.

**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 and special Assessments will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided with respect to the ownership and distribution of insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced and the property damaged by the taking will be made usable in the manner provided below. The proceeds of the awards and special Assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds 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 shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:

(a) **Restoration of Unit.** The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be assessed

against the Owner of the Unit.

(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 first to the applicable Institutional First Mortgagees in amounts sufficient to pay off their mortgages in connection with each Unit which is not so habitable; second, to the Association for any due and unpaid Assessments; 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 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 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.

**16.8 Discretion of Board.** In circumstances not covered by this Declaration or by law, a 2/3rds majority of Board may, upon an opinion of counsel that its decision is reasonable, deal with the condemnation in such reasonable manner as it determines to be appropriate under the circumstances.

## **ARTICLE XVII. 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. A Unit owned by an individual, corporation, partnership, trust or other fiduciary may only be occupied by the following persons, and such persons' families, provided that the Unit Owner or other permitted occupant must reside with his/her family: (i) the individual Unit Owner, (ii) an officer, director, stockholder or employee of such corporation, (iii) a partner or employee of such partnership, (iv) the fiduciary or beneficiary of such fiduciary, or (v) permitted occupants under a lease or sublease of the Unit (as described below), as the case may be. Occupants of a leased or subleased Unit must be the following persons, and such persons' families who reside with them: (i) an individual lessee or sublessee, (ii) an officer, director, stockholder or employee of a corporate lessee or sublessee, (iii) a partner or employee of a partnership lessee or sublessee, or a fiduciary or beneficiary of a fiduciary lessee or sublessee. In no event shall occupancy (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom and one (1) person per den (as defined by the Association for the purpose of excluding from such definition living rooms, dining rooms, family rooms, country kitchens and the like). The Board of Directors shall have the power to authorize occupancy of a Unit by persons in addition to those set forth above.

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, other than family of the Unit Owner or other person(s) who permanently cohabitates in the Unit with the Unit Owner, occupying a Unit for more than one (1) month shall not be deemed a guest but, rather, a person 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. The purpose of this paragraph is to prohibit the circumvention of the provisions and intent of this Section 17 and the Board of Directors of the Association shall enforce, and the Unit Owners comply with same with due regard for such purpose.

The rights of the Unit Owners to use any portion of the Association Property and/or the Common Elements shall be limited to the extent granted in, and subject to the restrictions of Section 3.4(d) hereof, and the obligation for the payment of assessments as set forth in this Declaration.

**17.2 Age.** There is no minimum age restriction or restriction on children occupying Units subject to Section 17.1 above.

**17.3 Pets.** Each Unit Owner or occupant (regardless of the number of joint owners or occupants) may maintain two (2) household pets (except fish for which there is no limit on the number) in his Unit, to be limited to dogs and/or cats (or other household pets defined as such and specifically permitted by the Association such as fish and caged (domestic type birds), provided that such pets are (a) permitted to be so kept by applicable laws and regulations, (b) not kept, bred or maintained for any commercial purpose; (c) not left unattended on balconies

or in lanai areas, (d) generally, not a nuisance or safety hazard to residents of other Units or of neighboring buildings and (e) not a pit bull or other breed considered to be dangerous by the Board of Directors and prohibited by the Rules and Regulations; provided that neither the Board nor the Association shall be liable for any personal injury, death or property damage resulting from a violation of the foregoing and any occupant of a Unit committing such a violation shall, and does hereby fully indemnify and hold harmless the Board of Directors, each Unit Owner and the Association in such regard. Unit Owners must pick-up all solid wastes of their pets and dispose of such wastes appropriately. Under no circumstances will any dog whose breed is noted for its viciousness or ill-temper, in particular the "Pit Bull", (as hereinafter defined), Chow, Doberman, Akita, German Shepard, Rottweiler, Mastiff, Presa Canario, or any crossbreeds of such breeds, be permitted on any portion of the Property. A "Pit Bull" is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying a majority of the physical traits of any one (1) or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. Exotic pets, snakes and other reptiles, pot-bellied pigs, chickens or other farm-type animals, or animals or pets other than dogs, cats, fish, and birds shall be prohibited. All pets (including cats) must be carried or kept on a leash no more than six (6) feet in length at all times when outside the Unit. No pet shall be permitted to roam free on condominium property, and all pets must comply with all applicable local government regulations or ordinances. Owners are responsible for picking up any and all pet waste to fully dispose of it in an appropriate trash receptacle. The failure to pick up pet waste, unreasonable barking, unreasonable aggression or safety hazards, and other violations of this provision shall constitute a nuisance. In the event that any pet kept on the premises shall constitute a nuisance in the opinion of a majority of the Board of Directors of the Association, then the owner, when so notified in writing, shall be required to immediately remove said pet from the premises. No pets may be kept on balconies when the Owner is not in the Unit. The Board shall have the authority to adopt reasonable rules and regulations regarding maintenance of any pet in the community, which may include, but shall not be limited to, the requirement to register all pets with the Association, the requirement to submit photographs of each such pet, the requirement to submit samples necessary to identify and register the pet's DNA, to require a non-refundable pet fee to be paid in an amount deemed appropriate by the Board in order to offset any costs associated with the general maintenance and cleanup of such pets and damages or costs incurred by the Association upon a violation of the pet restrictions, and/or to impose additional weight and/or breed restrictions. Feeding of birds or wild and/or stray animals shall be prohibited, unless otherwise permitted by written rules and regulations adopted by the Board.

**17.4 Alterations.** Without limiting the generality of Section 9.1 hereof, but 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, 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 Units.

**17.6 Nuisances.** No nuisances (as defined by the Association) shall be allowed on the Condominium Property. Unreasonable sounds, lights, odors, smoke, visual appearances, or conduct or use of the units or common property caused or committed by any owner, tenant, guest, their vehicles, musical instruments/stereos/televisions, pets, or other conditions that

become an unreasonable annoyance, or otherwise unreasonably interfere with the peaceful possession and proper use of the condominium property by residents or guests shall be prohibited. The Board shall have the discretion to determine nuisances in the community, and all nuisance activity must be immediately ceased upon notice from the Association. The owner shall be responsible for any and all costs or expenses associated with nuisances caused by the owner, tenant, occupant or guest of the unit. All parts of the Condominium property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor shall any fire hazard be allowed to exist. No use shall be made of any unit or of the Common Elements or Limited Common Elements which would increase the rate of insurance upon the Condominium property. 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 thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Section 11.7. No activity specifically permitted by this Declaration shall be deemed to be a violation of this Section.

**17.8 Floor Coverings.** Without limiting the generality of the approval requirements set forth in Section 9 of this Declaration, no hard-surfaced floor coverings such as wood, tile, marble and stone shall be installed in any second floor Unit or its appurtenant Limited Common Elements unless same is installed with sound-absorbing backing meeting the requirements, from time to time, of the Association. No hard-surfaced floor coverings such as wood, tile, marble or stone shall be installed on any first floor unit or its appurtenant Limited Common Element unless same is installed with moisture barrier material which meets the requirements adopted by the Board from time to time. Prior to installation of such floor coverings, the Owner must submit an application to the Board providing the information and samples necessary for the Board to determine whether the proposed floor covering and appropriate sound and moisture barriers meet the Board's requirements and sound absorption and moisture barrier standards. Any such flooring that is installed in violation of this provision, or that does not meet the minimum standards for sound-absorption at the time the flooring was installed must be immediately removed upon notice from the Association, at the owner's sole expense. Once the sound absorption and/or moisture barrier material has been installed, such material must be inspected by the Association prior to the hard-surfaced floor covering is installed.

**17.9 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, balconies or windows of the Building (including, but not limited to: awnings, signs, storm shutters, screens, window tinting, furniture, generators, fixtures and equipment), nor to plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life outside his Unit, without the prior written consent of the Association.

**17.10 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.

**17.11 Parking.** The Board shall have the authority to regulate parking throughout the community, and adopt reasonable rules and regulations. All vehicles must adequately fit into designated parking spaces and shall not be parked in any area that is not a designated or approved parking area. The Board shall have the authority to adopt additional rules and regulations regarding parking in the community, including but not limited to prohibition of repairs to vehicles on Association property, limitation on size, limitations on boats, trailers, recreational vehicles and similar items, or other reasonable rules designed to enhance safety and/or the appearance of the condominium property. The Board shall have the authority to tow any vehicle parked in violation of the Association's rules and regulations to the fullest extent permitted by law. Vehicles that continuously or repeatedly leak fluids or otherwise unreasonably damage the common elements or limited common elements may be required to be removed from the community, and the unit owner is responsible for any and all costs for damages to condominium property that requires the Board to incur additional expenses other than the typical expenses incurred in the periodic cleaning and maintenance of the common elements, as determined by the Board.

## **ARTICLE XVIII. SELLING, MORTGAGING, OCCUPANCY AND LEASING OF UNITS**

In order to insure a community of congenial residents and occupants and protect the value of the Units and to further the continuous harmonious development of the Condominium community, the occupancy, sale and transfer of Units shall be subject to the following provisions.

**18.1 Sales, Leases, and Transfers (including Gifts) of Units.** Unless otherwise provided herein, all sales, gifts, or other transfers of ownership interests in units and all tenant occupancy as described herein shall be required to receive the advance written approval of the Board or its authorized agent in order to be effective, in accordance with the application and approval process adopted by the Board. The Board may promulgate application forms that must be completed and provided to the Board in advance of the transfer, lease, or occupancy, and the Board may charge a non-refundable application fee in an amount up to the highest amount permitted by law. An application and required fee must be provided not less than fifteen (15) days prior to the proposed sale, transfer, lease, or occupancy. The application and approval process must take place before the close of any transfer, lease, or occupancy. The Board shall have the authority to perform credit and/or criminal background checks on all proposed purchasers, tenants, and occupants as a part of the application processes. The Board shall have the authority to adopt standards for qualifications of ownership, tenancy, and occupancy in regard to enforcing this provision including but not limited to the ability to deny transfers, leases, or occupancy based on qualifications adopted by the Board that are in the best interest of the safety and well-being of the community. In the event that a sale, transfer, or lease is disapproved by the Board, the Association shall have no obligation to purchase the unit or to provide an alternative transferee or tenant.

(a) **Exceptions:** The advance approval process shall not apply to sales or transfers as a result of a mortgage foreclosure or Association lien foreclosure sale, to any transfers by devise or inheritance, or any other similar non-voluntary transfer. However, all

tenancies and occupancies shall be bound by, and his Unit subject to, the leasing, occupancy, and transfer provisions.

**18.2 Leases.** Leasing of Units is permitted with the advance written consent of the Board of Directors as provided in Section 18.1. No portion of a Unit (other than an entire Unit) may be rented. All leases shall provide (or be automatically deemed to provide, absent an express statement) that the Association shall have the right to terminate the lease and evict all tenants/occupants under the provisions of Chapter 83, Florida Statutes, upon default by the tenant in observing any of the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association, applicable rules and regulations, or other applicable provisions of any agreement, document or instrument governing the Condominium. Regardless of whether or not expressed in the applicable lease, the Unit Owner shall be jointly and severally liable to the Association for the acts and omissions of his tenant(s) which constitute a violation of, or non-compliance with, the provisions of this Declaration and of any and all rules and regulations of the Association. Any occupant of a unit that resides in a unit for more than thirty (30) days in a calendar year while the owner is not simultaneously residing in the unit shall be deemed to be a tenant and subject to all provisions regarding tenancies, including but not limited to the ability of the Board to require removal of all occupants that violate the terms of the Association's governing documents.

Nothing herein shall interfere with the access rights of the Unit Owner landlord pursuant to Chapter 83, Florida Statutes. The Association shall have the right to adopt rules to prohibit dual usage by a Unit Owner and a tenant of Association Property and Common Elements otherwise readily available for use generally by Owners.

(a) The Board may adopt application and approval procedures, and require that the applicant provide necessary information required by the Board in accordance with its application procedures, along with the application fee.

(b) The Board shall have the authority to and reserves the right to require that a copy of the lease be provided with the application.

(c) All leases shall be deemed to include the authority of the Association to evict or otherwise remove a tenant that violates any of the provisions of the Association's governing documents.

(d) All leases shall be deemed to include a provision reserving the right of the Association to approve or disapprove the continuance of the lease at the lease term intervals.

(e) All tenancies shall be required to receive the advance written approval of the Board in order to be effective, in accordance with the application and approval process set forth above.

(f) Notwithstanding any provision to the contrary, all leases shall be for a minimum term three (3) months and no more than four (4) times per year. Leases shall not exceed twelve months without the approval of the Board of Directors. All leases that exceed twelve (12) months, and all renewals and extensions of leases are subject to the prior written approval of the Association.

**18.3 No Severance of Ownership.** No part of the Common Elements may be sold,



conveyed or otherwise disposed of, except as an appurtenance to the Unit in connection with a sale, conveyance or other disposition of the Unit to which such interest is appurtenant, and any sale, conveyance or other disposition of a Unit shall be deemed to include that Unit's appurtenant interest in the Common Elements.

**18.4 Devises.** Any Unit Owner shall be free to devise his Unit by will or to have his Unit pass by intestacy, without restriction; provided, however, that each succeeding Unit Owner and all occupants or tenants shall be bound by, and his Unit subject to, the provisions of this Section 18.

**18.5 Notice of Occupancy.** The Board shall have the authority to require all owners to provide advance written notice of the identity of any occupants that will be occupying the unit in addition to the owner, or tenants and occupants that will occupy the unit while the owner is not simultaneously occupying the unit. The Association has an important interest in identifying authorized occupants in order to be able to appropriately regulate access to and use of the Association's common elements. The Board shall have the authority to adopt procedures and forms to facilitate this notice requirement.

## **ARTICLE XIX. 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 Mandatory Non-binding Arbitration of Disputes.** Prior to instituting a lawsuit for any "dispute" as defined by the Act, the Association shall participate in non-binding arbitration as may be required by the Act. The Association shall be free to pursue any and all legal and equitable remedies available for all other types of issues that are not defined as a "dispute" that requires statutory arbitration. o

**19.2 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.

**19.3 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, the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to impose any applicable fines, suspend the right to use common property and recreational facilities, to sue in a court of law for damages, and to charge the Unit Owner for the sums necessary to do whatever work is required to put the Unit Owner or Unit in compliance. All fines or suspensions for violations of the Association's governing documents shall be subject to the notice and hearing requirements of the Act, and shall be conducted in accordance with policies and procedures adopted by the Board that are consistent with the Act. Fines may be imposed in amounts up to the highest amount allowed by

law, and shall not become a lien on the Unit unless permitted by the Condominium Act and approved by the Board. Fines shall be due and payable as set forth by the Board, and failure to pay such duly imposed fine shall permit the Board to proceed in any court of competent jurisdiction to obtain a money judgment against the individual that has been fined.

**19.4 Costs or Attorneys' Fees.** In any lawsuit and/or arbitration action 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 such reasonable attorneys' fees (including appellate attorneys' fees and all paralegal fees and costs). A Unit Owner prevailing in an action with the Association, in addition to recovering his reasonable attorneys' fees, may recover additional amounts as determined by the court to be necessary to reimburse the Unit Owner for his share of Assessments levied by the Association to fund its expenses of the litigation.

**19.5 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.

## **ARTICLE XX. TERMINATION OF CONDOMINIUM**

The Condominium shall continue until it is terminated in accordance with Section 718.117 of the Condominium Act, as it may be amended from time to time.

## **ARTICLE XXI. ADDITIONAL RIGHTS OF MORTGAGEES AND OTHERS**

**21.1 Availability of Association Documents.** The Association shall have current and updated copies of the following available for inspection by Institutional First Mortgagees during normal business hours or under other reasonable circumstances as determined by the Board: (a) this Declaration; (b) the Articles; (c) the By-Laws; (d) the rules and regulations of the Association; and (e) the books, records and financial statements of the Association.

**21.2 Notices.** Any holder, insurer or guarantor of a mortgage on a Unit shall have, if first requested in writing from the Association, the right to timely written notice of:

(a) any condemnation or casualty loss affecting a material portion of the Condominium and/or Association Property or the affected mortgaged Unit;

(b) a sixty (60) day, delinquency in the payment of the Assessments on a mortgaged Unit;

(c) the occurrence of a lapse, cancellation or material modification of any insurance policy maintained by the Association;

(d) any proposed action which requires the consent of a specified number of mortgage holders.

**21.3 Additional Rights.** Institutional First Mortgagees shall have the right, upon

written request to the Association, to: (a) receive a copy of an audited financial statement of the Association for the immediately preceding fiscal year if such statements were prepared; and (b) receive notices of and attend Association meetings.

## **ARTICLE XXII. 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 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.

## **ARTICLE XXXIII. ADDITIONAL PROVISIONS**

**23.1 Notices.** All notices to the Association required or desired hereunder or under the By-Laws of the Association shall be sent in accordance with the provisions if the Association's governing documents and the Act. 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, or by electronic transmission to owners that have consented to receiving notices in that manner. 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 5 business days after proper mailing, whichever shall first occur.

**23.2 Interpretation.** The Board of Directors of the Association shall be responsible for interpreting 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 that any interpretation adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation.

**23.3 Mortgagees.** Anything herein to the contrary notwithstanding, the Association shall not be responsible to any mortgagee of a Unit 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.

**23.4 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.

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

**23.6 Governing Law.** Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the Exhibits annexed hereto or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida.

**23.7 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.

**23.8 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.

**23.9 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 (i) 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, and (ii) automatically consent to any rezoning, replatting, covenant in lieu of unity of title, change, addition or deletion lawfully made in, on or to the Condominium Property or adjoining property which are implemented in accordance with the requirements of this Declaration and the requirements of F.S. 718.110(4), and in such regard, each Owner, or occupant of a Unit, hereby designates, the Association to act as agent and attorney-in-fact behalf of the Owner to consent to any such zoning, change, addition or deletion.

#### **23.10 INTENTIONALLY LEFT BLANK**

**23.11 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.

**23.12 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.

**23.13 Disclaimer of Warranties.** EXCEPT AS IMPOSED BY THE ACT (AND THEN ONLY TO THE EXTENT THEY CAN NOT BE DISCLAIMED), NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE

BY THE DEVELOPER OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE CONDOMINIUM PROPERTY (INCLUDING THE COMMON ELEMENTS AND THE UNITS), ITS PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAW, MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF OR IN CONNECTION WITH THE OPERATION OF THE ASSOCIATION. ALL 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.

### CERTIFICATE OF AMENDMENT

The undersigned officer of The Village at Townpark Condominium Association, Inc. ("Association"), a Florida not-for-profit corporation, does hereby certify that the foregoing Amended and Restated Declaration of Condominium of the Village at Townpark, a Condominium, was duly approved by the requisite number of members. The undersigned further certifies that this Amended and Restated Declaration was adopted in accordance with the Condominium Documents and applicable Florida law.

IN WITNESS WHEREOF, the Association has caused this Declaration to be signed in its name this 20<sup>th</sup> day of January, 2016.

Signed, sealed and delivered

Witnesses:

Sign: [Signature]  
Print Name: Jane Upright

Sign: [Signature]  
Print Name: Gracie L. Seppala

THE VILLAGE AT TOWNPARK CONDOMINIUM  
ASSOCIATION, INC.

By: [Signature]  
Print Name: Shelley L. Farr  
As its President

STATE OF FLORIDA  
COUNTY OF MANATEE

The foregoing instrument was acknowledged before me this 20 day of January, 2016, by Shelley Farr, as President of The Village at Townpark Condominium Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation. He/She is ☐ personally known to me or ☒ has produced Diver License (type of identification) as identification.



[Signature]  
Notary Public, State of Florida  
My Commission Expires: 12/3/2018