

Prepared by and return to:
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**DECLARATION OF CONDOMINIUM FOR
BAILEY BY THE SEA, A CONDOMINIUM**

KKONG 3-7-12-27 LLC – 2344-2376 Ocean Shore Blvd. – Series 1, a Wyoming Series and Close LLC, hereby declares:

1. INTRODUCTION AND SUBMISSION.

1.1 The Land. The Developer (as hereinafter defined) owns fee simple title to certain land located in City of Ormond Beach, Volusia County, Florida, more particularly described on Sheet 3 of 50 of Exhibit “A” attached hereto (the “Land”).

1.2 Submission Statement. The Developer hereby submits the Land and all improvements erected or to be erected thereon and all easements and rights appurtenant thereto intended for use in connection with the Condominium – but excluding all public or private (e.g. cable television and/or other receiving or transmitting lines, fiber, antennae or equipment) utility installations, technology wires, cables or other equipment therein or thereon reserved by the company installing same -- to the condominium form of ownership and use in the manner provided for in the Florida Condominium Act.

1.3 Name. The name by which this condominium is to be identified is Bailey By The Sea, a Condominium (hereinafter called the “Condominium”).

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

2.1 “Act” or “Condominium Act” means the Condominium Act (Chapter 718, Florida Statutes), as it exists on the date of recording of this Declaration, and not as hereafter amended.

2.2 “Articles” means the Articles of Incorporation of the Association as attached hereto as Exhibit “B,” as they may be amended from time to time.

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 Units and shall be deemed to include both regular assessments and special assessments, and where the context allows, shall also include Utility Assessments as defined herein.

2.4 “Association” means Bailey By The Sea Condominium Association, Inc., a Florida Corporation Not For Profit, the entity responsible for the operation of the Condominium, its successors and assigns.

2.5 “Association Property” means all property, real and personal, which is owned or leased by, or dedicated by a recorded plat to, the Association for the use and benefit of the Unit Owners, if any.

2.6 “Board” means the Board of Directors, as the representative body which is responsible for the administration of the Association’s affairs, and which is the same body that is sometimes referred to in the Act as the “Board of Administration.”

2.7 “Building” means the structure in which the Units and portions of the Common Elements are located, regardless of the number of such structures, which are located on the Condominium Property.

2.8 “Bylaws” means the Bylaws of the Association as attached hereto as Exhibit “C,” as they may be amended from time to time.

2.9 “Casualty” for the purposes of this Declaration, and not for the purpose of construing coverage between any insurer and insured, means an event which causes damage to the Condominium Property due to some sudden, fortuitous cause, including (but not limited to) fire, flood, hail, wind, rain, vandalism, explosion, or bursting pipes, but does not include progressive decay or corrosion, or slow or continuous leaks.

2.10 “Charge” means any legal or equitable indebtedness of a Unit Owner to the Association, or other sums owed to or due to the Association from a Unit Owner, or any cost or expense incurred by the Association on behalf of or because of a Unit Owner, other than Assessments for Common Expenses, which the Unit Owner is obligated to pay to the Association. Said obligations may arise by oral or written contract, by law or in equity, or may be created by these Condominium Documents. Accordingly, as to Charges, the Association will not generally have the enforcement remedies for Charges that the Act grants for the collection of Assessments, except as otherwise provided herein or in the Act.

2.11 “Common Elements” means and includes:

2.11.1 The portions of the Condominium Property not included within the Units.

2.11.2 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.

2.11.3 An easement of support in every portion of a Unit which contributes to the support of the Building.

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

2.11.5 Any other parts of the Condominium Property designated as Common Elements in this Declaration.

2.12 “Common Expenses” means all expenses incurred by the Association for the administration, maintenance, operation, repair and replacement of Common Elements and Association Property, including but not limited to the Surface Water or Stormwater Management System, and such other expenses as may be declared Common Expenses by this Declaration, the Articles, or the Bylaws. Common Expenses shall also include, without limitation, costs of the following:

2.12.1 Bulk interior pest control for Units, if provided by the Association in the Board’s discretion;

2.12.2 Premiums for property and public liability insurance and reasonable insurance for directors and officers;

2.12.3 Utility bills that are not separately metered to individual Units or, where such utilities have been sub-metered to individual Units, the portions of such utility bills that are unreimbursed to the Association through the Utility Assessments referenced herein;

2.12.4 Accounting and legal fees, wages and fees for managerial and other services;

2.12.5 All reserves required by the Act or otherwise established by the Association, regardless of when reserve funds are expended;

2.12.6 Communications services as defined in Chapter 202, information services, or internet services, if so designated by the Board, with the costs of said services, at the election of the Board, assessed on a per-Unit basis rather than on a percentage basis, or as permitted by the Act;

2.12.7 If applicable, reasonable transportation services, road maintenance and operation expenses, in-house communications and surveillance services, which are reasonably related to the general benefit of the Unit Owners even if such expenses do not attach to the Common Elements or Condominium Property;

2.12.8 Any items or services required by any federal, state, or local governmental entity to be installed or supplied to the Condominium Property by the Association, including, but not limited to, fire safety equipment or water and sewer service where a master meter services the Condominium;

2.12.9 Property taxes and other costs or maintenance expenses attributable to any Units acquired by the Association or any Association Property.

2.12.10 Any unpaid share of Common Expenses extinguished by foreclosure of a superior lien or by deed in lieu of foreclosure;

2.13 “Common Surplus” means the amount of all receipts or revenues, including Assessments, rents, or profits, collected by the Association, which exceeds Common Expenses.

2.14 “Condominium Documents” means this Declaration; the Survey, Graphic Description & Plot Plan attached hereto as Exhibit “A,” Articles, Bylaws and Rules, as they are amended from time to time.

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

2.16 “Condominium Property” means the lands, leaseholds, and improvements, any personal property, and all easements and rights appurtenant thereto, regardless of whether contiguous, which are subjected to condominium ownership under this Declaration.

2.17 “Declaration” means this instrument, and as it may be amended from time to time.

2.18 “Developer” means KKONG 3-7-12-27 LLC – 2344-2376 OCEAN SHORE BLVD. – SERIES 1, A WYOMING SERIES AND CLOSE LLC, its successors and such of its assigns as to which the rights of Developer hereunder are specifically assigned. Developer may assign all or any portion of its rights hereunder, or all or any portion of such rights in connection with specific portions of the Condominium. In the event of any partial assignment, the assignee shall not be deemed the Developer, but may exercise such rights of the Developer as are specifically assigned to it. Any such assignment may be made on a nonexclusive basis. In the event the holder of any mortgage executed by the Developer, or any subsidiary or affiliate of the holder, obtains title to all or any portion of the Condominium Property by foreclosure, or deed in lieu thereof, or other conveyance, such holder or subsidiary or affiliate of the holder shall become the Developer only if it so elects by written notice to the Board, except as otherwise provided by the Act or the rules promulgated thereunder, but regardless of such election, the holder, or subsidiary or affiliate of the holder, shall have the right to assign any of the rights of Developer as provided herein to any third party who acquires title to all or a portion of the Condominium Property from the holder, or subsidiary or affiliate of the holder. In any event, any subsequent Developer shall not be liable for any defaults or obligations incurred by any prior Developer, except as same are expressly assumed by the subsequent Developer.

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

2.20 “Institutional First Mortgagee” means a bank, savings and loan association, insurance company, mortgage company, real estate or mortgage investment trust, pension fund, an agency of the United States Government, mortgage banker, a government sponsored entity, the Federal National Mortgage Association (“FNMA”), the Federal Home Loan Mortgage Corporation (“FHLMC”), any lender advancing funds to the Developer (or any subsequent Bulk Buyer or Bulk Assignee (as defined in the Act) secured by an interest in all or any portion of the Land, improvements thereon, or Condominium Property or any other lender generally recognized as an institutional lender, or the Developer, holding a first mortgage on a Unit or Units.

2.21 “Life Safety Systems” means the common fire sprinkler and fire alarm system which is now or hereafter installed in the Buildings, whether or not within the Units. All such Life Safety Systems, together with all conduits, wiring, electrical connections, pipes, lines, valves and systems related thereto, regardless of where located, shall be deemed Common Elements hereunder.

2.22 “Limited Common Elements” means those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of all other Units, as specified in this Declaration. References herein to Common Elements shall include all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided. Whenever a portion of the Condominium Property naturally and exclusively services a particular Unit, and where the area in question lies outside of the boundaries of the Unit, the delegation of maintenance responsibility for the area (by way of example, but not limitation, air conditioning compressors) shall serve to define the area as a Limited Common Element.

2.23 “Limited Common Expenses” means those expenses affiliated with the maintenance, repair, replacement, or reconstruction of a Limited Common Element performed by the Association, the costs of which are assessed only against the benefiting Unit Owner(s), as authorized by §718.113(1) of the Act, and if so provided in this Declaration.

2.24 “Maintenance” shall mean, unless the context of a provision in the Condominium Documents requires otherwise, day to day cleaning, heavy cleaning, painting where applicable, routine maintenance, ongoing maintenance, preventative maintenance, as well as repair or replacement. The term “maintenance” shall not include repair after Casualty, unless the context of a provision in the Condominium Documents requires otherwise. Whenever a Unit Owner is obligated by the Condominium Documents or law to maintain, repair or replace portions of the Condominium Property, the Board shall have the authority to establish Rules imposing reasonable standards for such maintenance, repair or replacement, including mandating maintenance, repair or replacement of said items, when the Board deems same are reasonably necessary.

2.25 “Member” means the record Owner(s) of legal title to a Unit.

2.26 “Developer Institutional First Mortgagee” means the Institutional First Mortgagee upon Developer-owned Units. which owns, at the relevant time, first mortgages on Developer-owned Units securing a greater aggregate indebtedness than is owed to any other Institutional First Mortgagee upon Developer-owned Units.

2.27 “Rules” means those rules and regulations promulgated and amended from time to time by the Board, governing the use, occupancy, alteration, maintenance, transfer and appearance of Units, Common Elements and Limited Common Elements, and the operation and administration of the Association, subject to any limits set forth in the Declaration. The Rules need not be recorded in the Public Records of Volusia County in order to be valid, but may, at the election of the Board, be so recorded.

2.28 “Surface Water or Stormwater Management System” means the portions of the Condominium Property which comprise the water management system which is designed and

constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, which are authorized by a permit issued by the Florida Department of Environmental Protection (“DEP”) pursuant to Chapter 62-330, Fla. Admin. Code, serving the Condominium Property including, but not limited to, berms, detention/retention areas, swales, culverts, weirs, outfall structures, related pipes and any other water control device or conveyance providing water quality treatment and stormwater attenuation as well as any conservation areas that are or may be required as a result of any modifications to the Surface Water or Stormwater Management System. The Surface Water or Stormwater Management System shall be operated and maintained by the Association. Maintenance of the Surface Water or Stormwater Management System shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the DEP. Any repair or reconstruction of the Surface Water or Stormwater Management System shall be as permitted, or if modified, as approved by the DEP.

2.29 “Utility Assessment” means the costs of water and sewer services and charged to an individual Unit based upon the submetering thereof by the Association as more fully described in Section 8.3 of this Declaration.

2.30 “Unit” means a part of the Condominium Property subject to exclusive ownership.

2.31 “Unit Owner” or “Owner” means the record Owner of legal title to a Condominium Parcel.

2.32 “Voting Interests” means and refers to the arrangement established in the Condominium Documents by which the Owners of each Unit collectively are entitled to one vote in the Association matters. There are thirty-two (32) Units, so the total number of Voting Interests is thirty-two (32).

3. DESCRIPTION OF CONDOMINIUM.

3.1 Identification of Units. The improvements included within the Condominium Property will consist primarily of five (5) four-story Buildings, containing a total of thirty-two (32) Units, with Building One containing seven (7) Units, Building Two containing eight (8) Units, Building Three containing six (6) Units, Building Four containing five (5) Units, and Building Five containing six (6) Units. Each Unit will include a garage therein. Each Unit shall be identified by a separate numerical or alpha-numerical designation.

In addition to the above, there is one (1) outdoor swimming pool; and, a pool house restroom building located on the ground level adjacent to Buildings Two and Five.

There shall be pedestrian beach access provided for the exclusive use of Unit Owners of the Condominium as part of the Common Elements of the Condominium to be located within the portion of the Condominium Property labeled as the Beach Common Area on Exhibit A attached hereto. Such Beach Common Area portion of the Condominium Property shall be subject to such

rights, if any, of the public to use such area or any portion thereof for beach access as provided under Florida law from time to time or as a public beach or recreation area any part thereof lying between the body of water abutting the Condominium Property and the natural line of vegetation, bluff, extreme high water line, or other apparent boundary lines separating the publicly used area from the upland private area or any other line which has been or which hereafter may be legally established as relating to such public use.

Copies of proposed graphic descriptions and plot plans which depict the proposed boundaries of the Condominium Property and proposed 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 proposed to be located thereon, (including the Units and the Buildings in which the units are located), and a proposed plot plan thereof ("Survey, Graphic Description & Plot Plan"). The Survey, Graphic Description and Plot Plan shows the proposed number of bedrooms and bathrooms in each Unit and contains a floor plan of each Unit and may undergo modifications during the permitting and construction of the Buildings. Construction of the proposed improvements is not substantially complete as of the initial recording of this Declaration. Upon substantial completion of such improvements, the Developer shall unilaterally amend this Declaration to include the certificate required by §718.104(4)(e) of the Act ("Substantial Completion Amendment"). There shall pass with the Units as appurtenances thereto (a) an undivided share in the Common Elements and Common Surplus as set forth herein, (b) the exclusive right to use such portion of the Common Elements as may be provided in this Declaration; (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in airspace which is vacated shall be terminated automatically; (d) membership in the Association with the full voting rights appurtenant thereto, and (e) any other appurtenances as may be provided by this Declaration.

The Condominium will be created and Units will be sold in fee simple interests and not as leasehold interests.

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

3.2.1 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:

3.2.1.1 Upper Boundaries. The horizontal plane of the back/top/upper side of the drywall, plasterboard, gypsum board or other wall board, ceiling of the upper-most story of the Unit (the Units being multi-stories), provided that where the lower boundary of the Unit as described hereinbelow extends beyond such upper boundary, the upper boundary shall include that portion of the ceiling of the bottom floor for which there is no corresponding ceiling on the upper floor directly above such bottom floor ceiling), so that for all purposes hereunder the drywall, plasterboard and/or gypsum board located on the ceilings of a Unit shall be deemed part of the Unit and not part of the Common Elements and all structural components of both the high roof and lower roofs, any attic spaces, insulation, and roof coverings of the Building shall be deemed part

of the Common Elements.

3.2.1.2 Lower Boundaries. The horizontal plane of the unfinished upper surface of the concrete slab of the first story/garage level of the Unit, provided that 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 slab on the bottom story directly below the floor of such top floor.

3.2.1.3 Interior Divisions. Except as provided in Subsections 3.2.1.1 and 3.2.1.2, no part of the floors of the top or middle floors, ceilings of the bottom/garage level or middle floors, stairwell or elevator shaft adjoining the multi-floors or interior non-perimeter walls shall be considered a boundary of the Unit.

3.2.2 Perimetrical Boundaries. The perimetrical boundaries of the Unit shall be the vertical planes of the back side of any drywall, plasterboard, gypsum board or other wall board of the interior walls bounding the Unit extended to their planar intersections with each other and with the upper and lower boundaries defined hereinabove, so that for all purposes hereunder the drywall and/or gypsum board shall be deemed part of the Unit and not part of the Common Elements.

3.2.3 Apertures. Except only as expressly provided herein to the contrary, 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, together with exterior surfaces made of glass or other transparent materials.

3.2.4 Garages. The enclosed garage of each Unit, including the garage doors and any mechanical openers related thereto, shall be considered within the boundaries of and a part of such Unit.

3.2.5 Elevators and Elevator Shafts. The elevator and elevator shaft, and all equipment, components and appurtenances thereto shall be considered within the boundaries of and a part of such Unit.

3.2.6 Exceptions. In cases not specifically covered above, and/or in any case of conflict or ambiguity, the Survey, Graphic Description & Plot Plan of the Units set forth in Exhibit “A” hereto shall control in determining the boundaries of a Unit, except that the provisions of Subsection 3.2.3 above shall control unless specifically depicted and labeled otherwise on such Survey, Graphic Description & Plot Plan. Further, notwithstanding anything to the contrary herein, the following components shall be excluded from the Units and are a part of the Common Elements, notwithstanding that they may be located within the boundaries of a Unit:

3.2.6.1 Life Safety Systems;

3.2.6.2 All plumbing, electrical and heating/air conditioning systems, installations and components (including, but not limited to wiring, switches, outlets, fixtures,

conduits, appliances, equipment, connections, pipes, ducts, and lines) which serve more than one Unit;

3.2.6.3 Surface Water or Stormwater Management System;

3.2.6.4 Floor joists; and

3.2.6.5 Interior load-bearing walls within the Unit boundaries (excluding any drywall or gypsum board or coverings thereon, any insulation therein, and excluding the elevator shaft walls).

3.3 Limited Common Elements.

3.3.1 Balconies and Porches. Any balcony or porch which adjoins a Unit that is the only Unit having direct and immediate access to it shall be a Limited Common Element appurtenant to that Unit. For purposes of this Declaration, balcony or porch shall include any railings or parapet surrounding it.

3.3.2 Driveways. There shall be as an appurtenance to each Unit one (1) driveway as to which direct and exclusive access shall be afforded to such Unit to the exclusion of others which shall be a Limited Common Element of such Unit.

3.3.3 Fourth Floor Decks. Any fourth-floor deck or sky deck ("deck") which adjoins a Unit having direct and exclusive access to it shall be a Limited Common Element appurtenant to that Unit, including all appliances, awnings or pergolas and floorcoverings thereon. For purposes of this Declaration, a deck shall include all improvements thereto and walls, parapets or railings thereon.

3.3.4 Miscellaneous Areas; Equipment. Any fixtures or equipment (e.g., an air conditioning compressor or hot water heater) serving a Unit exclusively, and any area (e.g., a closet or ground slab) upon/within which such fixtures or equipment are located shall be as an appurtenance to the Unit exclusively served thereby.

3.3.5 Walkways/Entry Steps. The front entry area/steps and the portion of that walkway exclusively serving a Unit from the Common Element sidewalk leading to the front entry of such Unit shall be a Limited Common Element appurtenant to the Unit.

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

3.4.1 Support. Each Unit, the Building and any structure and/or improvement constructed adjacent or connected thereto shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units, the Common Elements and/or the Association Property and any other structure or improvement which abuts any Unit, Building or any structure and/or improvement constructed adjacent thereto.

3.4.2 Utility and Other Services; Drainage. Non-exclusive easements are

reserved under, through and over the Condominium Property as may be required from time to time for Life Safety Systems, utility, cable television, internet, broadband, communications, drainage, and other services in order to serve the Condominium and/or Members of the Association. An easement over the Condominium Property has been or will be created by the Developer or the Association in favor of Think Utility Services (“TUS”) or a similar entity, for the purpose of providing water and sewer submetering services, including for installation, maintenance and repair of any submetering devices and related equipment, including any transmitters, repeaters and the central collection system (“Submetering Equipment”); identifying monthly water and sewer usage per Unit, and allowing such provider to enter the Condominium Property at reasonable times as necessary for the purpose of installing, maintaining, replacing, operating or removing the Submetering Equipment. A Unit Owner shall do nothing within or outside his or her Unit that interferes with or impairs, or may interfere with or impair, the provision of such services or the use of these easements. The Association shall have an irrevocable right of access to each Unit, the Common Elements, and the Limited Common Elements to maintain, repair or replace such systems or facilities, 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.

3.4.3 Encroachments. If (i) any portion of the Common Elements and/or the Association Property encroaches upon any Unit (or Limited Common Element appurtenant thereto); (ii) any Unit (or Limited Common Element appurtenant thereto) encroaches upon any other Unit or upon any portion of the Common Elements and/or the Association Property; or (iii) any encroachment shall hereafter occur as a result of (1) construction of the improvements by the Developer; (2) settling or shifting of the such improvements; (3) any alteration or repair to the Common Elements and/or the Association Property made by or with the consent of the Association or Developer, as appropriate; or (4) any repair or restoration of the improvements constructed by the Developer (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 and/or the Association Property, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of same so long as such improvements shall stand.

3.4.4 Ingress and Egress. A non-exclusive easement in favor of each Unit Owner, resident, their guests, tenants and invitees shall exist over streets, walks, and other rights-of-way serving the Units, as part of the Common Elements necessary to provide reasonable access to the public ways. None of the easements specified in this Subsection shall be encumbered by any leasehold or lien other than those on the Condominium Parcels, unless such lien is subordinate to the rights of Unit Owners with respect to such easements.

3.4.5 Association Maintenance. Easements are hereby reserved over, through and across such portions of the Condominium Property as may be necessary or convenient to afford access by the Association (and its designees, contractors, subcontractors, employees or other parties designated by the Association) for the maintenance, repair, replacement, alteration and/or operation of the Common Elements or any portion of a Unit, if any, to be maintained by the Association, Life Safety Systems, which are most conveniently serviced (in the sole determination of the Board) by accessing such areas. Without limitation of the foregoing, the Association (and

its designees, contractors, subcontractors, employees) shall have the right to have access to each Unit from time to time during reasonable hours as may be necessary for pest control purposes, if and to the extent the Board so elects to perform such service, and for the maintenance, repair or replacement of any Common Elements or any portion of a Unit, if any, to be maintained by the Association, or at any time and by force, if necessary, to prevent damage to the Common Elements, the Association Property or to a Unit or Units, including, without limitation, (but without obligation or duty) to close exterior storm shutters, if any, in the event of the issuance of a storm watch or storm warning.

3.4.6 Developer Easements for Construction, Maintenance, Repair. The Developer (including Developer's designees, contractors, successors and assigns) shall have the right, in its (and their) sole discretion from time to time, to enter the Common Elements and/or Association Property and Units and take all other action necessary or convenient for the purpose of undertaking and completing the construction thereof and/or any portion of the Common Elements and/or Association Property or Units, or any part thereof, or any improvements or Units located or to be located thereon, and/or any improvements located or to be located adjacent thereto and for repair, replacement, maintenance or warranty purposes or where to Developer, in its sole discretion, determines that it is required or desires to do so.

3.4.7 Development, Sales and Leasing Activity. Until such time as Developer is no longer offering Units for sale or lease in the ordinary course of its business, the Developer, its designees, successors and assigns, hereby reserves and shall have the right to use any Units owned by Developer and all of the Common Elements or Association Property for guest accommodations, model apartments and sales, leasing, management, resales, administration and construction offices, to provide financial services, to show model Units and the Common Elements and/or any other portions of the Condominium Property to prospective purchasers and tenants of Units and/or to erect on the Condominium Property and Association Property signs, displays and other promotional material to advertise Units or other properties for sale or lease and an easement is hereby reserved for all such purposes and as may be reasonably required in the connection with the development, construction, marketing, sale or leasing of any Unit within the Condominium Property and without the requirement that any consideration be paid by the Developer to the Association or to any Unit Owner.

3.4.8 Public Easements. Fire, police, health and sanitation and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Elements in the performance of their respective duties.

3.4.9 Warranty. For as long as Developer remains liable under any warranty, whether statutory, express or implied, for acts or omissions of Developer in the development, construction, sale, resale, leasing, financing and marketing of the Condominium, then Developer and its contractors, agents and designees shall have the right, in Developer's sole discretion and from time to time and without requiring prior approval of the Association and/or any Unit Owner and without requiring any consideration to be paid by the Developer to the Unit Owners and/or Condominium Association (provided, however, that absent an emergency situation, Developer shall provide reasonable advance notice), to enter the Condominium Property, including the Units, Common Elements and Limited Common Elements (without restriction), for the purpose of

inspecting, testing and surveying same to determine the need for repairs, improvements and/or replacements, and effecting same, so that Developer can fulfill any of its warranty obligations. The easements reserved in this Section shall expressly survive the transfer of control of the Association to Unit Owners other than the Developer and the issuance of any certificates of occupancy for the Condominium Property (or portions thereof). Nothing herein shall be deemed or construed as the Developer making or offering any warranty, all of which are disclaimed (except to the extent same may not be or are expressly set forth herein) as set forth in Subsection 18.11 below.

3.4.10 Additional Easements. The Association, through its Board, on the Association's behalf and on behalf of all Unit Owners (each of whom hereby appoints the Association as its attorney-in-fact for this purpose), shall have the right to grant such additional general ("blanket") and specific electric, gas or other utility, cable television, internet, security systems, communications, drainage or service easements (and appropriate bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or modify or relocate any such existing easements or drainage facilities, in any portion of the Condominium and/or Association Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium and/or Association Property, as the Board shall deem necessary or desirable for the proper operation and maintenance of the improvements within the Condominium Property or Association Property, or any portion thereof, or for the general health or welfare of the Unit Owners and/or Members of the Association, 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.

4. RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS. The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit 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 cannot be conveyed or encumbered except together with the Unit. The respective shares in the Common Elements appurtenant to Units are and shall remain undivided, and no action for partition of the Common Elements or any part thereof, shall lie, except as provided herein with respect to termination of the Condominium.

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

5.1 Common Element & Common Surplus Ownership and Shares. Each Unit shall have an equal undivided interest in the Common Elements and Common Surplus and an equal responsibility for Common Expenses.

5.2 Voting. Each Unit shall be entitled to one (1) vote in Condominium Association matters to be cast by its Owner in accordance with the provisions of the Bylaws and Articles of the Association. Each Unit Owner shall be a Member of the Condominium Association. Notwithstanding anything herein to the contrary, a Unit Owner does not have any authority to act for the Association by reason of being a Unit Owner.

6. MAINTENANCE. Responsibility for the Maintenance of the Condominium Property shall be as follows:

6.1 Common Elements & Association Property. Except only as expressly provided in this Declaration to the contrary as to Limited Common Elements, all Maintenance in, of and to the Common Elements and Association Property shall be the responsibility of the Association. Without limitation of the foregoing, the Association shall be responsible for the Maintenance of the following:

6.1.1 Lawns, landscaping and trees;

6.1.2 Sidewalks and paths located upon the Common Elements, except for such portion of the walkways as are identified as Limited Common Elements in Section 3.3.5 hereinabove;

6.1.3 Perimeter fencing or perimeter walls upon the Condominium Property, if any;

6.1.4 Poolside restrooms, swimming pool and any common mail kiosk;

6.1.5 Dumpster enclosure;

6.1.6 Common Element parking areas;

6.1.7 Beach access/dune walkover and related improvements;

6.1.8 Roofs;

6.1.9 Structural components of the Building, including floor joists, roof trusses, and the structural components of load-bearing walls (excluding any drywall or gypsum board or coverings thereon), excluding the elevator shaft walls);

6.1.10 Surface Water or Stormwater Management System in a manner consistent with the requirements of the Permit issued therefore and applicable rules of the DEP. The Association shall also assist in the enforcement of the restrictions and covenants which relate thereto.

6.1.11 Exterior Building wall surfaces, including stucco, siding and painting and surface preparation for painting of all painted exterior Building surfaces, including the framing of any windows and doors, and the painted exterior surface of any exterior door. As part of any routine painting project, the Association may perform exterior pressure washing and caulking of components of the Building for which the Unit Owner is otherwise responsible.

6.1.12 Plumbing and Electrical. The Association's Maintenance responsibility includes, except as may be specifically otherwise provided to the contrary, without limitation, all

electrical conduits and installations located from (but not including) the electrical meter exclusively serving the Unit outward; electrical conduits and installations located within or outside a Unit for the furnishing of utilities to another Unit other than the Unit in which such installations are located, more than one Unit, or the Common Elements; plumbing fixtures and installations located within or outside a Unit for the furnishing of utilities to another Unit other than the Unit in which such installations are located, more than one Unit, or the Common Elements. The Association's Maintenance responsibility does not include electrical fixtures, switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within the Unit and serving only that Unit, said items being the Maintenance responsibility of the Unit Owners. Notwithstanding anything herein to the contrary, the Association shall be responsible for Maintenance of all Submetering Equipment as defined in Section 3.4.2 of this Declaration.

Notwithstanding anything herein to the contrary, the Association shall not be responsible for Maintenance of any alteration or addition to the Condominium Property made by a Unit Owner or his predecessors in title pursuant to Subsection 7.1 hereinbelow. All costs and expenses of such Association Maintenance under this Subsection 6.1 shall be charged to all Unit Owners as a Common Expense except where this Declaration expressly requires such to be charged as a Limited Common Expense, and except to the extent arising from or necessitated by the negligence, misuse or neglect of specific Unit Owners or the guest, tenant, family member or invitee of the Unit Owner or the Unit Owner's tenant, in which case such cost and expense shall be paid solely by such Unit Owner, as provided in Subsection 6.4 hereinbelow.

6.2 Units & Limited Common Elements. Each Unit Owner is responsible, at his own expense, for all Maintenance of his own Unit and those Limited Common Elements serving his Unit, except only as otherwise expressly provided herein, whether ordinary or extraordinary, including, without limitation:

6.2.1 Drywall and Finishes. The Unit Owner shall maintain, repair and replace all drywall within the Unit, the finishes thereof, paint and all trim, baseboards or crown molding.

6.2.2 Electrical. The Unit Owner shall maintain, repair and replace all electrical fixtures, apparatus or installations located within the Unit or any Limited Common Element appurtenant thereto, which service only the individual Unit, plus all electrical fixtures, apparatus or installations from and including the electrical meter exclusively serving the Unit, including any housing or other components related to such meter, inward, regardless of where located, which service only that Unit, unless such components or portions thereof are the responsibility of a utility provider.

6.2.3 Doors. The Unit Owner shall maintain, repair and replace sliding glass doors, the entry door, garage door and any other doors of or exclusively serving the Unit or any Limited Common Element appurtenant thereto and the structural and mechanical components thereof including frames, fixed panels, tracks, locks, hardware, trim, openers and related electrical components, and caulking, subject to the Association's responsibility to paint exterior door surfaces pursuant to Subsection 6.1.11 above.

6.2.4 Windows. The Unit Owner shall maintain, repair and replace all windows, skylights and fixed panes or panels of glass (including, but not limited to all framing, casing, jambs, sashes, screens, glass, locking and opening mechanisms, hardware, tracks, caulking, and interior sills and molding related thereto) located within or exclusively serving the Unit or any Limited Common Element appurtenant thereto;

6.2.5 Hurricane Protection. The Unit Owner shall install, maintain, repair and replace any Hurricane Protection and all components, hardware, installations and fixtures associated therewith which are located within or which exclusively serve the openings of such Unit or any Limited Common Element appurtenant thereto;

6.2.6 Plumbing and Mechanical Fixtures. The Unit Owner shall maintain, repair and replace the mechanical and plumbing fixtures and outlets (including connections) within a Unit or Limited Common Element appurtenant thereto and serving only that Unit including sinks, toilets, tubs, showers, shower pans, elevator, and all related fixtures and installations.

6.2.7 Appliances. The Unit Owner shall maintain, repair and replace all appliances within the Unit or any Limited Common Element appurtenant thereto.

6.2.8 Heating and Air Conditioning Equipment; Ductwork. The Unit Owner shall maintain, repair and replace all portions of the heating and air conditioning equipment exclusively serving a Unit or a Limited Common Element appurtenant thereto (including compressors, air handlers, ductwork, freon lines and discharge lines, even if exterior to the Unit), dryer vents to the point of termination (even if exterior to the Unit), air conditioner or air handler discharge lines to the point of termination or connection to another discharge (even if exterior to the Unit).

6.2.9 Floor Coverings. The Unit Owner shall maintain, repair and replace carpeting and other floor covering within the Unit and any floor covering upon any porch, balcony or deck areas or other Limited Common Element appurtenant to such Unit.

6.2.10 Other Equipment and Fixtures. The Unit Owner shall maintain, repair and replace all other equipment or fixtures located or contained entirely within a Unit or Limited Common Element appurtenant thereto which serve only that Unit.

6.2.11 Plumbing (Incoming). The Unit Owner shall maintain, repair and replace all incoming plumbing from the point at which the incoming water line diverts from a common pipe or line shared by multiple Units inward, even if exterior to the Unit.

6.2.12 Plumbing (Outgoing). The Unit Owner shall maintain, repair and replace outbound plumbing, including the lateral portion of the sewer line extended outside the boundaries of the Unit until such lateral meets the portion of the sewer line which is shared by multiple Units.

6.2.13 Driveways. Unit Owners shall be responsible for all Maintenance of the Limited Common Element driveway appurtenant to their Unit.

6.2.14 Balconies, Porches and Fourth Floor Deck. Notwithstanding anything herein to the contrary, the Unit Owner who owns or has the right to the exclusive use of a balcony, porch or deck shall be responsible for the Maintenance of: balcony, porch or deck floor coverings (the Board may prohibit certain types of floor coverings or require the removal of existing coverings when necessary for the structural preservation of the Building); storm shutters and other enclosures thereof or thereon; fixed and/or sliding glass doors and affiliated framing and hardware thereof; the wiring, electrical outlet(s) and fixture(s) on or servicing the balcony, porch or deck; ceiling fans; light bulbs; screens, and screen framing upon or within such balcony, porch or deck; any awnings or pergolas upon such balcony, porch or deck and any hardware, electrical, mechanical or other components of any such awning or pergola, including those of any motorized awning or pergola; and any appliances located upon any such balcony, porch or deck. The Unit Owner shall also be responsible for the general cleaning of such balcony, porch or deck. The Association shall be responsible for structural maintenance, repair and replacement of balcony, porch or deck floors, ceilings, and railings, parapets, any Building walls enclosing any portion of a balcony, porch or deck, and the exterior ceiling over any covered porch (not to include any awning or pergola, which is an owner responsibility hereunder), all of such Association work to be performed by the Association as a Common Expense. Unit Owners may not puncture (by nails, hooks, screws or otherwise) balcony floors, walls, or ceilings, without obtaining the prior written approval of the Board.

6.2.15 Elevator & Elevator Shaft. The Unit Owner shall be responsible for the Maintenance of all portions of the elevator and elevator shaft within and/or exclusively serving the Unit, including all structural, mechanical, electrical and other components thereof or apparatus related thereto wherever situated.

Any of the above-described areas that are to be maintained, repaired or replaced by the Unit Owner, if located outside of the boundaries of the Unit, are declared Limited Common Elements. Responsibility for Maintenance of Condominium Property may not coincide with obligation for insurance of Condominium Property, nor its repair after Casualty, or damage from covered cause of loss under the Association's applicable insurance policy, which are governed by Sections 9 and 10 hereof, respectively.

6.3 Enforcement of Maintenance. If, after reasonable notice, the Owner of a Unit fails to perform required Maintenance of the Unit or other portions of the Condominium Property as required by the Condominium Documents, or as may be required to comply with law, the Association shall have, without waiver of other remedies, the right to enter the Owner's Unit or Common Elements (including Limited Common Elements) and perform or cause performance of the necessary work, and/or institute legal proceedings at law or in equity to enforce compliance, and/or to take any and all other lawful actions to remedy such violation; in which event the Unit Owner shall be charged for the costs of such activities (including attorney's fees incurred by the Association) by the Association as a Charge, except that to the extent the expenses thereof are incurred with respect to an abandoned unit as defined in §718.111(5)(b) of the Act, such charges shall be enforceable as an Assessment pursuant to the Act and the Association may use its lien authority provided herein and under the Act to enforce collection thereof.

6.4 Damage Caused by Owners. Each Unit Owner shall be liable to the Association

and/or other Unit Owners for the expenses of any Maintenance of the Condominium Property made necessary by his intentional act or negligence, or by that of any member of his family or his or their occupants, guests, tenants or invitees.

7. MODIFICATIONS, ADDITIONS, ALTERATIONS & IMPROVEMENTS.
Restrictions upon the alteration or improvement of the Condominium Property shall be as follows:

7.1 Modifications, Additions, Alterations by Unit Owners. After completion of the initial construction of the Condominium by the Developer, no Owner may make or permit the making of any modification, addition or alterations to any portion of the Common Elements (including Limited Common Elements), the Association Property, any portion of his Unit visible from the exterior of his Unit, or which requires disturbing of the Common Elements, or undertake any structural work upon his Unit without first obtaining the written consent of the Board. For purposes of this provision, “structural work” of a Unit requiring prior approval of the Board hereunder includes, but is not limited to: relocation, addition or removal of electrical, plumbing, ductwork, air conditioning or heating installations; relocation, addition or removal of existing fixtures or appliances such as toilets, sinks, tubs, showers, dishwashers, refrigerators, or ranges; the relocation, removal, addition or modification of any partition, door, window or screen; raising ceilings; or relocating kitchen or bathroom cabinetry. Replacement of a Unit’s cabinetry, appliances and fixtures, with substantially equivalent installations in the same location, shall not be deemed “structural” and shall not require approval of the Board, unless a building or other permit is required. Further, “structural” work, modifications or alterations of a Unit shall include any and all work that requires a building permit, an electrical permit, a plumbing permit, a mechanical permit, or similar permit from the appropriate governmental agency, whether or not mentioned above.

The Board has the right to adopt additional Rules governing any Unit Owner alterations hereunder, which may include procedures for application to the Board for approval of same. The Board may, in circumstances it deems appropriate, and without limiting the right to ask for plans or specifications and other relevant information, require sealed plans from an Architect or Professional Engineer licensed to practice in Florida as a condition of reviewing any requested work hereunder. The Board may require, as a condition of review, the Unit Owner’s obligation to pay the Association’s expenses of review, including but not limited to, legal, engineering or other consultant fees. The Board, in reaching its decision, may take into account uniformity of appearance, compatibility with architecture in the Condominium the quality of the proposed alteration, objections of neighboring residents, and such other criteria as the Board may reasonably adopt in reaching its decision, without limitation. The Board may take into account whether other Unit Owners would be able to make such alterations or modifications, and the effect of the fact that similar requests may need to be approved by the Association. If the Board determines to permit any modification or alteration by a Unit Owner of a Common Element or Limited Common Element which is visible from the exterior of the Unit, from any vantage, said modification or alteration may nonetheless be approved by the Board of Directors alone, and shall not require approval of the Voting Interests in the manner otherwise provided in Subsection 7.3 of this Declaration.

7.1.1 Performance of Alteration. The Owner must commence and complete an approved alteration at his or her sole cost and expense with reasonable diligence and expediency and must comply with all applicable laws, ordinances, regulations, governmental authorities, building codes, this Declaration, the Articles, Bylaws, and any Rules. The Owner shall also comply with bona fide safety requirements, consistent with applicable building codes or recognized safety standards for the protection of persons and property, as they exist independently or may be adopted by the Association from time to time. Permits and inspections required by any and all applicable codes, ordinances, statutes, regulations and governmental agencies, and all costs and fees associated therewith shall be obtained by, and shall be the responsibility of, the Owner.

7.1.2 Contractor Insurance. Owners shall utilize only qualified and properly licensed and registered contractors and shall ensure that all contractors carry appropriate insurance with the minimum requirements required and established by the Board from time to time, which shall include, at a minimum (a) Worker's Compensation and Occupational Disease Insurance in accordance with the applicable law or laws (coverage must be included for sole proprietors); (b) Commercial General Liability; and (c) Commercial Automobile Liability Insurance covering the use of all Owned, Non-Owned, and Hired Vehicles. Labor performed on or materials furnished for any Owner alteration may not be the basis for filing a lien under Part I of Chapter 713 against the Unit or the condominium Parcel of any Unit Owner not expressly consenting to or requesting the labor or materials.

7.1.3 Perpetual Duty to Maintain, Repair & Replace. Notwithstanding anything in this Declaration to the contrary, if a Unit Owner (or the Unit Owner's predecessor in title other than the Developer) makes, or has made any modifications or alterations to any portion of the Condominium Property, the Unit Owner (or the Owner's successors in title if the Unit has since been transferred) shall assume the perpetual responsibility for prompt and adequate Maintenance thereof in a good, habitable, safe, attractive and clean condition, at Owner's sole cost and expense, regardless of the circumstances or events which necessitate the performance of such Maintenance, whether as a result of the passage of time, normal wear and tear, Casualty, accident, act of God, the negligence of the Owner or some other person or entity or from any cause whatsoever, and the Owner shall execute such documents as the Association may promulgate, if any, accepting said responsibility. Owners shall immediately and properly correct any condition associated with an alteration which would, if left uncorrected, cause any damage to any other portion of the Condominium Property or create a condition that is potentially hazardous. Nothing herein shall obligate the Association to inspect an Owner's alteration, ensure its safety or otherwise notify the Owner or other persons of any deficiencies or necessary Maintenance thereof or potential danger associated therewith.

7.1.4 Financial Responsibility. Owners, their heirs, successors in title and assigns shall at all times be and remain perpetually financially responsible for all costs, fees and expenses incurred in connection with an Owner alteration or improvement and its use (including those costs, fees or expenses incurred by the Association), including costs of utilities, any construction, drawings, plans, inspections, and reports performed or prepared by a contractor, architect, engineer or other professional in connection with the Owner alteration, its installation, inspection, Maintenance, removal or existence, and including reasonable attorneys' fees and costs incurred by the Association related to the enforcement of the provisions contained herein. The

Owner alteration shall not cause irreparable damage to the Condominium Property. Owners shall take full responsibility for and bear the full cost of immediate repair or replacement of any portion of the Condominium Property that may be damaged and/or destroyed by an Owner alteration, whether such damage is caused directly by the Owner or indirectly by a contractor, employee or agent of the Owner, including any damage that is difficult to detect and which may result in unforeseen damage to the Condominium Property. Owners shall be solely responsible for any damages or increased costs of Maintenance suffered to any impacted portions of the Condominium Property that would not have occurred but for the existence of the Owner alteration. All costs which are the responsibility of an Owner hereunder shall constitute a Charge against the Owner.

7.1.5 Duty to Insure. Except where and to the extent any Owner alteration constitutes a replacement of an original installation by the Developer of like kind and quality, Owners (or their successors in title) shall be perpetually responsible to obtain property and liability insurance relating to any Owner alteration or improvement whether or not any such alteration or improvement requires the prior approval of the Board hereunder. The Association shall have no obligation to either insure the alteration or improvement as part of the Condominium Property insurance policy or to reconstruct or repair same in the event of a Casualty. As and where determined appropriate and reasonable by the Board, the Board may condition its approval of an Owner alteration on a requirement that the Owner shall, within fourteen (14) days after receiving approval of the Association for any alteration or improvement, and at reasonable periods of time thereafter as requested by the Association to ensure such insurance remains in place, provide the Association with a certificate of insurance naming the Association as an additional insured on the Owner's insurance policy for any claim related to the installation, Maintenance, or use of the alteration as well as the endorsement reflecting same. Notwithstanding the foregoing, and in addition to the Owner's obligations to insure provided herein, an Owner shall reimburse the Association for the actual cost of any increased insurance premium amount incurred by the Association that is attributable to an Owner alteration within fourteen (14) days after receiving the Association's insurance premium invoice.

7.1.6 Removal. Any modification or alteration to the Condominium Property made by a Unit Owner may be required to be removed in connection with the Association's inspection, Maintenance or alteration of the Condominium Property; and in such cases, the determination as to the necessity for such removal, the means and timing of same shall be made by the Board at its sole reasonable discretion. The Board shall not be obligated to consult with or seek approval of the Owner for any Association removal hereunder, and re-installation of an Owner alteration or improvement may not thereafter be practical or possible. In such cases, the Unit Owner who installed the modification or alteration (and/or their successors in title) shall be obligated to reimburse the Association for any costs affiliated with removal and/or reinstallation of the item or alternatively, said Owner may be required to remove and reinstall said modification or alteration, if so determined by the Board. Further, the Association, its contractors and agents, shall not be liable for any damage to the item arising out of its removal and/or reinstallation, unless occasioned by the gross negligence or willful misconduct of the Association or its contractor or agent, although the Association may provide for stricter liability standards in contracts with contractors. Further, the Owner hereby expressly waives and releases the Association, its officers, directors, agents, contractors and employees from all liability for damages associated with the removal or reinstallation of an Owner improvement or alteration pursuant to this paragraph.

7.1.7 Release of Association Liability. While the Association may approve an Owner alteration, the Association is in no way endorsing or advising as to the Owner alteration and makes no representations on what ramifications of such alteration may be in the future. Neither the Association nor the Board, by its approval of any matter contemplated by the Owner alteration, certifies the safety or integrity thereof, or its compliance with any building, zoning, health, safety, electrical or similar code or standards. Additional approval(s) must be separately obtained, if applicable, from all necessary agencies by the Owner. The Owner, his heirs, successors in title and assigns shall expressly waive any and all claims and release the Association and its Directors, officers and agents from any liability for the approval, or for death or injuries to persons or damage to any property whatsoever arising from the approval, construction, use or existence of the alteration, or for loss to the Owner or other Owners in the Building or Condominium Property, economic or otherwise, arising from the approval, construction, use or existence of the alteration.

7.1.8 Indemnification. To the fullest extent permitted by law, the Owner, his heirs, successors in title and assigns, will forever indemnify and hold harmless the Association, its officers, Directors, representatives, agents, employees, Members, and all other Owners in the Building or Condominium Property and the tenants, guests and invitees of all other Owners from and against any and all liability (including statutory liability), claims, suits, liens, judgments, damages, losses and expenses, including reasonable attorneys' fees and all court costs (including attorneys' fees and court costs incurred on appeal), arising or alleged to have arisen in whole or in part and in any manner from injury and/or death of person or damage to or loss of any property resulting, arisen or alleged to have arisen from the approval, construction, insurance, inspection, existence, Maintenance, use, removal or reinstallation of an Owner alteration.

7.1.9 Provisions Specific to Alternate Fuel Stations. Should An Owner desire to make certain alterations by installing an electric vehicle charging station or a natural gas fuel station ("Alternate Fuel Station") within the boundaries of the garage of his Unit or the Driveway appurtenant thereto and other improvements necessarily related thereto for the purpose of charging the Owner's electric vehicle as defined by Florida Statute §320.01 or for purposes of fueling the Owner's vehicle powered by natural gas fuel as defined in Florida Statute §206.9951, such alteration shall be subject to all of the provisions of this Subsection 7.1 hereinabove, except only where and to the limited extent that application of any such restrictions or requirements shall violate the provisions of Florida Statutes §718.113(8). Without limiting any of the provisions contained in Subsection 7.1 hereinabove, the following additional specific restrictions shall apply to the installation and operation of any Alternate Fuel Station by an Owner:

7.1.9.1 Owner Removal. In the event an Owner decides there is no longer a need for the Alternate Fuel Station, the Owner shall remove the Alternate Fuel Station and promptly restore the garage appurtenant to the Unit to its original condition and shall be responsible for all costs necessitated thereby.

7.1.9.2 Responsibility for and Assessment of Costs. The Owner, or their successor in title, shall be responsible for all costs associated with the Alternate Fuel Station, including, but not limited to, costs for supply and storage of any natural gas fuel, and costs of

installation, operation, Maintenance, removal, property insurance and liability insurance for the Alternate Fuel Station, the costs of which shall be promptly reimbursed to the Association to the extent they have been incurred by the Association. Without limiting the foregoing, Owners shall be perpetually responsible for all utility facilities, service and installations necessitated for the installation, operation, Maintenance of the Alternate Fuel Station, including but not limited to any electric meter, electric lines, cables, conduits or other equipment or apparatus. The electricity for the Alternate Fuel Station must be separately metered or metered by an embedded meter and payable by the Owner installing such Alternate Fuel Station, or by such Owner's successor. Without limiting the foregoing, in the event, and at any time (whether at the time of the original installation of the Alternate Fuel Station or any date thereafter) an upgrade to electrical service provided to the Condominium Property is necessitated by the installation, operation or existence of the Alternate Fuel Station, including any electric service upgrade that is determined by the Board to be reasonably necessary or desirable and that, but for the Alternate Fuel Station, would not be required, shall be performed at the sole cost and expense of the Owner or his successors in title. All costs for which the Owner is responsible relating to such Alternate Fuel Station shall be a Charge against the Owner or their successor, and may be collected in the manner of an Assessment pursuant to Florida Statute §718.113(8)(e) and (f).

7.1.9.3 Contractors. Owners shall utilize only qualified and properly licensed and registered electrical contractors or engineers familiar with the installation and core requirements of an Alternate Fuel Charging Station for the installation, Maintenance and preservation thereof. Labor performed on or materials furnished for the installation of an Alternate Fuel Station may not be the basis for filing a lien under part I of chapter 713 against the Association, but such a lien may be filed against the Unit Owner.

7.1.10 Provisions Specific to Unit Floor Coverings. The installation of hard flooring within a Unit shall require the prior approval of the Board, which may be conditioned upon the Unit Owner's installation of appropriate sound-deadening material. The Board has the authority to adopt Rules containing specifications for minimum sound proofing material that will be approved.

7.1.11 Provisions Specific to Summer Kitchens. Subject to the prior written approval of the Board, Owners shall be permitted to install permanent summer kitchens on the fourth-floor deck of a Unit provided: (i) such installation is in accordance with the NFPA Fire Code; (ii) all required county and/or city permits have been obtained; and (iii) written approval from a Florida Licensed Structural Engineer has been obtained showing the proposed area of installation has been properly tested to ensure that structural loads are within the safety limits of the Building specifications. Owners shall be responsible for maintaining the approved summer kitchens in clean and working order at all times. All provisions in Subsection 7.1.1 through 7.1.8 governing Owner alterations and liability therefor shall apply to any such summer kitchen.

7.1.12 Provisions Specific to Hot Tubs/Spas. Subject to the prior written approval of the Board, Owners shall be permitted to install hot tubs/spas on the fourth floor deck of a Unit provided: (i) such installation is in accordance with all applicable life safety and other relevant governmental codes and ordinances; (ii) all required county and/or city permits have been obtained; and (iii) written approval from a Florida Licensed Structural Engineer has been obtained

showing the proposed area of installation has been properly tested to ensure that structural loads are within the safety limits of the Building specifications. Owners shall be responsible for maintaining the approved hot tub/spa in clean and working order at all times. All provisions in Subsection 7.1.1 through 7.1.8 governing Owner alterations and liability therefor shall apply to any such hot tub/spa.

7.1.13 Hurricane Protection Specifications. The Board shall adopt Rules containing Hurricane Protection specifications for the Condominium which shall include color, style, and other factors deemed relevant by the Board. All specifications adopted by the Board shall comply with the applicable building code.

7.2 Modifications, Alterations, Additions by Developer. Notwithstanding anything herein to the contrary, the restrictions contained in the foregoing Subsection 7.1 shall not apply to Developer-owned Units and/or improvements made thereto, nor shall any Rules or other conditions imposed upon modifications, additions, alterations or structural work be applicable to the Developer. The Developer shall have the right, without the consent or approval of the Association, the Board or other Unit Owners, to (i) make modifications, alterations, additions and improvements, structural and non-structural, interior and exterior, ordinary and extraordinary, in, to and upon any Unit owned by it or them and Limited Common Elements appurtenant thereto (including, without limitation, the removal of walls, windows, doors, sliding glass doors, floors, ceilings, and other structural portions of the Building and/or the installation of divider walls and/or signs); and/or (ii) the right to change the layout or number of rooms in any Developer-owned Units; (iii) change the size of Developer-owned Units by combining separate Developer-owned Units into a single living space (although being kept as two separate legal Units), or otherwise; and (iv) reapportion among the Developer-owned Units affected by such change in size pursuant to the preceding clause, their appurtenant interests in the Common Elements and share of the Common Surplus and Common Expenses; provided however, that the percentage interest in the Common Elements and share of the Common Surplus and Common Expenses of any Units (other than the affected Developer-owned Units) shall not be changed by reason thereof unless the Owners of such Units shall consent thereto and, provided further, that Developer shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction in so doing. In making the above alterations, additions and improvements, the Developer may relocate and alter Common Elements adjacent to or near such Units, incorporate portions of the Common Elements into adjacent Units and incorporate Units, or portions thereof, into adjacent Common Elements, provided that such relocation and alteration does not materially and adversely affect the market value or ordinary use of Units owned by Unit Owners other than the Developer. Any amendment to this Declaration required by changes of the Developer made pursuant to this Subsection 7.2 shall be effected by the Developer alone pursuant to Subsection 14.8 without the vote or consent of the Association or Unit Owners (or their mortgagees) required, except to the extent that any of same constitutes a Material Amendment, in which event, the amendment must be approved as set forth in Subsection 14.5 for Material Amendments.

7.3 Modifications, Alterations, Additions by Association. After completion of the initial construction of the Condominium by the Developer, there shall be no further material alterations or substantial additions to the Common Elements or Association real property by the Association, except upon the approval of a majority of the Voting Interests of the Association

present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is present, or by written agreement of a majority of the entire Voting Interests. Necessary Maintenance of the Common Elements or Association Property, regardless of the level of expenditure, may be accomplished without approval of the Voting Interests notwithstanding that such Maintenance may also constitute a material alteration or substantial addition to the Common Elements or Association real property.

8. ASSESSMENTS. Assessments shall be made by the Board, shall be borne by the Unit Owners on the basis set forth in Subsection 5.1 and elsewhere in these Condominium Documents. Assessments levied pursuant to the annual budget shall be made against Units not less frequently than quarterly in an amount which is not less than that required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. Assessments shall be collected from Unit Owners in the manner provided in the Bylaws and the Act and as follows:

8.1 Liability for Assessments. A Unit Owner, regardless of how title is acquired, including a purchaser at a judicial sale or by deed in lieu of foreclosure, is liable for all Assessments coming due while he/she is the Unit Owner. Except as provided in Subsection 8.8 hereinbelow any person or entity which acquires title to a Unit shall be jointly and severally liable with any of their predecessors in title for all unpaid Assessments against any predecessor for his/her share of the Assessments, including interest, late fees, attorney's fees and other costs and expenses of collection incurred by the Association up to the time of the transfer, without prejudice to any right the transferee may have to recover from the transferor or other predecessor in title the amounts paid by the transferee. 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.

8.2 Special Assessments. In addition to Assessments levied by the Association to meet Common Expenses pursuant to an annual budget, the Board may levy special assessments for specific purposes of a nonrecurring nature, for the acquisition, installation, construction, or replacement of any capital improvements located or to be located within the Common Elements or Association Property, or any shortfall or deficit in the annual budget. Special assessments may be levied by the Board and shall be payable in lump sums or installments at the discretion of the Board. The specific purpose or purposes of any special assessment, including any contingent special assessment levied in conjunction with the purchase of an insurance policy authorized herein, shall be set forth in a written notice of such Assessment sent or delivered to each Unit owner. The funds collected pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in such notice. However, upon completion of such specific purpose or purposes, any excess funds will be considered Common Surplus, and may, at the discretion of the Board, either be returned to the Unit Owners or applied as a credit toward future Assessments.

8.3 Utility Assessments. Submetering Equipment has or will be installed upon the Condominium Property for the purpose of measuring the water usage of each individual Unit. While a master meter for water/sewer service serves the Condominium Property, Unit Owners are responsible for the expense of water and sewer services provided to their individual Units, as indicated on the Submetering Equipment for their individual Units. The Association will receive

and pay for, as a Common Expense, from the relevant utility provider, an invoice for all water and sewer services provided to the Condominium Property via a master meter; and the Association will then charge the individual Unit Owners directly for their respective usage of such water and sewer service, in such amounts as indicated by the Submetering Equipment ("Utility Assessment"). The Association shall be entitled to utilize a third party to perform such submetering services, including services related to the billing and collection thereof, and may include in the Utility Assessment for each Unit all costs and charges imposed by such provider on a per-Unit basis, which may include fees, costs or charges imposed for billing, transferring accounts upon the transfer of a Unit or other status change, generation of late notices, NSF fees for returned payments or other similar charges. Unpaid Utility Assessments shall be collectible by the Association in the same manner as all other Assessments and may incur the same penalties as nonpayment of all other Assessments as outlined elsewhere in this Declaration, including, but not limited to, imposition of late fees, application of interest, recording of a claim of lien and the foreclosure thereof.

8.4 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 incur a late fee in an amount as determined by the Board and bear interest in an amount as determined by the Board. If such late fee or interest rate is not otherwise specified by the Board, the late fee shall be an amount which is the greater of \$25.00 or 5% of each delinquent installment, and the interest rate shall be 18%. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such Condominium Parcel, with interest, late fees and for reasonable attorney's fees, as well as costs and expenses of collection incurred by the Association incident to the collection of the Assessment or enforcement of the lien. No lien may be filed by the Association against a Unit until forty-five (45) days after the date on which a notice of intent to file a lien has been delivered to the Owner pursuant to §718.121(4) of the Act. The Association's lien is in effect until all sums secured by it have been fully paid or until barred by law. A claim of lien shall be signed and acknowledged by an officer or agent of the Association. Upon recording, the Association's claim of lien shall relate back to the date of the filing of the original Declaration. Upon payment in full, the Condominium Parcel is entitled to a satisfaction of the lien. The Association may bring an action in its name to foreclose a lien for Assessments in the manner that a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid Assessments without waiving any claim of lien.

8.5 Acceleration. As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid, and after thirty (30) days' prior written notice to the applicable Unit Owner, the Association may accelerate and declare immediately due and payable all installments of Assessments for the remainder of the fiscal year, which accelerated Assessments shall be due and payable on the date the claim of lien is filed.

8.6 Notice of Intention to Foreclose Lien. So long as required by law, no foreclosure judgment may be entered until at least forty-five (45) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments. If this notice is not given at least forty-five (45) days before the foreclosure action is filed, and if the unpaid Assessments, including those which have been accelerated (if applicable) and those coming due after the claim of lien is recorded, are paid before the entry of a final judgment or foreclosure, the Association shall not recover attorney's fees or costs. The notice must be given by delivery of

a copy of it to the Unit Owner or by certified mail, return receipt requested, addressed to the Unit Owner at his or her last known address; and, upon such mailing, the notice shall be deemed to have been given, and the court shall proceed with the foreclosure action and may award attorneys fees and costs as permitted by law. The notice requirements of this provision are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act. The notice requirements of this Subsection do not apply if an action to foreclose a mortgage on the Unit is pending before any court; if the rights of the Association would be affected by such foreclosure; and if actual, constructive, or substitute service of process has been made on the Unit Owner.

8.7 Attachment of Rental Income When Unit is Delinquent. Notwithstanding any other remedy available to the Association under this Declaration, the Bylaws, or applicable law, the Association shall have the following options when payment of Assessments are in default (more than ten days in arrears). The Association may, without order of the Court, direct rental income (by written notice to the tenant with copy to Unit Owner) from any Unit in default to be paid directly to the Association until all outstanding monetary obligations of the Unit Owner related to the Unit are paid in full. The tenant must pay the monetary obligations to the Association until the Association releases the tenant or the tenant discontinues tenancy in the Unit. The Association must provide the tenant a notice, by hand delivery or United States mail, in the form provided in the Act. The Association must mail written notice to the Unit Owner of the Association's demand that the tenant make payments to the Association. The association shall, upon request, provide the tenant with written receipts for payments made. A tenant is immune from any claim by the landlord or Unit Owner related to the rent timely paid to the Association after the Association has made written demand. If the tenant paid rent to the landlord or Unit Owner for a given rental period before receiving the demand from the Association and provides written evidence to the Association of having paid the rent within 14 days after receiving the demand, the tenant shall begin making rental payments to the Association for the following rental period and shall continue making rental payments to the Association to be credited against the monetary obligations of the Unit Owner until the Association releases the tenant or the tenant discontinues tenancy in the Unit. The liability of the tenant may not exceed the amount due from the tenant to the tenant's landlord. The tenant's landlord shall provide the tenant a credit against rents due to the landlord in the amount of moneys paid to the Association. The Association may issue notice under §83.56, Fla. Stat. and sue for eviction under §§83.59-83.625, Fla. Stat. as if the Association were a landlord under part II of chapter 83 Florida Statutes if the tenant fails to pay a required payment to the Association after written demand has been made to the tenant. However, the Association is not otherwise considered a landlord under Chapter 83 and specifically has no obligations under §83.51, Fla. Stat. The tenant does not, by virtue of payment of monetary obligations to the Association, have any of the rights of a Unit Owner to vote in any election or to examine the books and records of the Association. As an alternative, the Association may apply to a Court of competent jurisdiction, either in connection with a foreclosure suit, a personal suit, or otherwise, to have rental proceeds paid on account of a Unit in default paid directly to the Association, the court registry, or a receiver, as the Court may direct. The Association may choose any of these courses of action, or other remedies as may be prescribed by law or elsewhere in the Condominium Documents, as the Board deems appropriate, without same constituting a waiver or election of remedies.

8.8 First Mortgagee. The priority of the Association's lien and the obligation for

payment of past due Assessments or other sums due in relation to first mortgagees who obtain title as a result of foreclosure or deed in lieu of foreclosure, shall be determined by the Act.

8.9 Certificate of Unpaid Assessments or Charges. Any Unit Owner has the right to require from the Association a certificate showing the amount of unpaid Assessments against him/her with respect to his/her Unit or Charges. The Association, its agents, and counsel shall be entitled to charge a fee for preparing such information, in amounts established by the Board from time to time, or in a management agreement between the Association and a Community Association Management Firm or based on reasonable and customary fees charged by legal counsel, or as otherwise provided by the Act.

8.10 Developer Liability for Assessments. Notwithstanding anything contained in this Declaration, the Articles or the Bylaws to the contrary, the Developer is guaranteeing the Common Expenses as set forth herein beginning with the time of the recording of this Declaration and ending on December 31, of the year in which this Declaration is recorded. The Developer shall be excused from the payment of the share of the Common Expenses and Assessments relating to the Units it is offering for sale for a period beginning with the recording of this Declaration and ending December 31, of the year in which this Declaration is recorded, in the sum of \$2,000.00 per Unit per month. The guarantee period shall be automatically renewed for successive periods of one (1) year each, up to five (5) additional one (1) year periods (however in no event shall a guarantee period extend past turnover of Developer control to the non-Developer Unit Owners), unless Developer provides notice of its decision to discontinue Developer's guarantee prior to the expiration of the prior guarantee period (for example, by including such a notation in the Association's budget). However, the Developer must pay the portion of Common Expenses incurred during the guarantee period which exceeds the amount assessed against other Unit Owners. The guarantee herein shall not include any working capital contribution payable to the Association hereunder or under the Prospectus or Purchase Agreement.

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

9.1 Purchase of Insurance. Except as otherwise provided herein or as required by the Act, all insurance policies described herein shall be purchased by the Association, with the named insured or additional insured 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.

9.2 Approval. Each insurance policy, the agency and company issuing the policy, shall be subject to the approval of the Developer Institutional First Mortgagee, if requested thereby.

9.3 Copies to Mortgagees. One copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, purchased by the Association shall be furnished by the Association upon request to each first mortgagee who holds a mortgage upon a Unit covered by the Policy.

9.4 Exclusions from Coverage. Except as specifically provided herein or by the Act,

the Association shall not be responsible to Unit Owners to obtain insurance coverage upon improvements (including alterations, additions, modifications or betterments) installed by a current or former owner of the Unit or by the Developer if such improvement benefits only the Unit for which it was installed and is not part of the standard improvements installed by the Developer on all Units as part of original construction, whether or not such improvement is located within the Unit; their personal property within the Unit or Limited Common Elements; floor, wall, and ceiling coverings; electrical fixtures; appliances; water heaters; water filters; built-in cabinets and countertops; and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components; or replacements of any of the foregoing which are located within the boundaries of the Unit and serve only such Unit; and for their personal liability, moving and relocation expenses, lost rent expenses, special assessment coverage and living expenses and for any other risks not otherwise insured in accordance herewith. To the extent that a Unit Owner or other occupant of a Unit desires coverage for such excluded items, it shall be the sole responsibility of the Unit Owner and/or occupant to obtain, although every such policy obtained must comply with the provisions of §627.714, Florida Statutes, as amended from time to time, and as outlined herein below.

9.5 Coverage. The Association shall use its best efforts to maintain insurance covering the following:

9.5.1 Property Insurance. Except as otherwise provided herein, the Association shall obtain and maintain fire, wind, general property and extended coverage insurance with a responsible insurance company upon all of the portions of the Condominium Property required to be insured by the Association under the Act, as well as Association Property and the personal property of the Association, all as originally installed or replacements of like kind and quality, in accordance with the original plans and specifications, as well as all alterations or additions made by the Association to the Condominium Property or Association Property pursuant to §718.113(2), Fla. Stat, for the replacement value thereof, including coverage for changes in building codes, unless the Board determines that such coverage for changes in building codes is not reasonably available or commercially practicable, and less a commercially reasonable deductible as determined by the Board, provided the Board may exclude landscaping and exterior improvements not customarily insured by condominium associations in the locality, and foundation and excavation costs, in its discretion. The Association shall determine the replacement value of the insured improvements through an independent insurance appraisal or an update of a prior appraisal at least once every 36 months. Notwithstanding the foregoing requirement, the Association, through its Board, will have fulfilled its duty to obtain insurance coverage if it obtains and maintains such insurance coverage as may be reasonably available from time to time given market and economic conditions, provided such coverage shall always meet the minimum level of adequate coverage required by the Act.

9.5.2 Flood. If required by the Developer Institutional First Mortgagee or FNMA/FHLMC, or if the Association so elects, the Association shall use its best efforts to obtain and maintain adequate flood insurance, for replacement value, less a commercially reasonable deductible as determined by the Board, and less foundation and excavation costs if determined by the Board. The Association will have discharged its responsibility to use its “best efforts” to obtain “adequate” flood insurance if it is able to purchase flood insurance up to the limits available

through the National Flood Insurance Program (NFIP), or through any similar federally sponsored or related program, or through private carriers with similar coverage, for premium rates that are generally commensurate with flood insurance premium rates for condominiums in the local area.

9.5.3 Liability Insurance. The Association shall obtain and maintain public liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Common Elements and Association Property and automobile liability (if the Association owns any vehicles) and insuring the Association and the Unit Owners as their interest may appear in such amount as the Board may deem appropriate. The Board shall have authority to compromise and settle all claims against the Association or upon insurance policies held by the Association.

9.5.4 Fidelity Bond. The Association shall obtain and maintain insurance or fidelity bonding of all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this paragraph, the term “persons who control or disburse funds of the association” includes, but is not limited to, those individuals authorized to sign checks on behalf of the Association, and the President, Secretary, and Treasurer of the Association.

9.5.5 Worker’s Compensation. Such worker’s compensation coverage as may be required by law or deemed advisable by the Board.

9.5.6 Other Insurance. Such other insurance as the Board may from time to time deem to be necessary, including but not limited to Errors and Omissions Officers and Directors Liability insurance coverage and insurance for the benefit of its employees.

9.6 Deductible and Other Insurance Features. The Board shall establish the amount of the deductible under the insurance policies, and other features (including but not limited to exclusions), as it deems desirable and financially expedient, in the exercise of its business judgment, and in the method provided by the Act. The deductible and other features shall be consistent with industry standards and prevailing practice for communities of similar size and age and having similar construction and facilities in the locale where the Condominium Property is situated.

9.7 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the cost 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 a manner as the Board deems appropriate.

9.8 Insurance Shares or Proceeds. Insurance proceeds of policies purchased by the Association covering property losses shall be paid to the Association, and all policies and endorsements thereon shall be deposited with the Association. The duty of the Association shall be to receive such proceeds as are paid and to hold and disburse the same for the purposes stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares:

9.8.1 Common Elements & Association Property; Proceeds On Account Of Damage To Common Elements or Association Property shall be held as follows: An undivided share for each Unit Owner, such share being the same as the undivided share in the Common Elements appurtenant to the Unit.

9.8.2 Unit; Proceeds On Account Of Damage To Units: Proceeds on account of damage solely to Units and/or certain portions or all of the contents thereof shall be held for the benefit of Owners of Units 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.

9.8.3 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 in the manner elsewhere stated.

9.8.4 Common Elements and Units. When both Common Elements and those portions of the Unit insured by the Association are damaged by a common insured loss, the proceeds of insurance shall be allocated between damage to Common Elements, Limited Common Elements, and Units as the Board shall determine. It shall be presumed that when there are insurance proceeds received on account of a common Casualty or covered cause of loss under the Association's applicable insurance policy, but insufficient proceeds for such Casualty or covered cause of loss repair (including but not limited to shortfalls occasioned by the existence of a deductible), that such shortfalls shall first be applied to Common Elements damage, and then to damage to Units and Limited Common Elements, it being the intent of this provision that when there is a common Casualty loss or covered cause of loss under the Association's applicable insurance policy causing significant damage to the premises, the shortfalls occasioned by deductibles shall be first apportioned to all Unit Owners in proportion to their share of the Common Elements and not applied first to Unit damage.

9.8.5 Mortgages. In the event that a mortgage endorsement has been issued as to a Unit, the share of that Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds.

9.9 Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed in the following manner:

9.9.1 Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the Unit Owners, or, at the option of the Board, may be deposited in the Association's reserve fund.

9.9.2 Failure to Reconstruct or Repair. If it is determined in the manner

elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed in accordance with the Plan of Termination approved pursuant to Section 16.

9.10 Association as Agent. The Association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon any Unit and for each Owner of any other interest in the Condominium Property or any property in which the Association owns an interest, to adjust all claims arising under insurance policies by the Association, and to execute and deliver releases upon the payment of such claim.

9.11 Appointment of Insurance Trustee. The Board shall have the option, in its sole discretion, of appointing an insurance trustee to manage insurance proceeds hereunder. If the Association fails or elects not to appoint an insurance trustee, the Association will perform directly all obligations imposed by this Declaration. If the Board does appoint an insurance trustee, all expenses of any such insurance trustee shall be a Common Expense and shall be first paid from any insurance proceeds, unless alternate provision for such expenses is made.

10. RECONSTRUCTION AFTER CASUALTY. If any part of the Condominium Property shall be damaged by Casualty or covered cause of loss under the Association's applicable insurance policy, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

10.1 Common Elements. If the damaged improvement is any of the Common Elements, the damaged Common Elements shall be reconstructed or repaired, unless the Condominium is to be terminated as provided elsewhere herein.

10.2 The Building.

10.2.1 Lesser Damage. If the damage renders fewer than 50% of the Units in the Condominium uninhabitable, as determined by the Board or governmental agencies of jurisdiction, the damaged property shall be reconstructed or repaired.

10.2.2 Major Damage. If the damage renders more than 50% of the Units in the Condominium uninhabitable, as determined by the Board or governmental agencies of jurisdiction, the damaged property will be reconstructed or repaired, unless 75% of the entire Voting Interests in the Condominium agree in writing that such reconstruction or repair shall not take place. The decision whether or not to reconstruct or repair shall be made within one hundred eighty (180) days after the Casualty or covered cause of loss under the Association's applicable insurance policy, provided however that the Board shall have the authority to extend this period for decision-making, not to exceed three (3) years, to deal with exigencies in communication with Unit Owners caused by natural disasters or other significant casualties, or to deal with delays in obtaining information regarding reconstruction costs or insurance proceeds available for reconstruction.

10.2.3 Plans and Specifications. Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original improvements and applicable building and other codes, or if not, then according to plans and specifications approved

in the manner of a material alteration or substantial addition as described in Subsection 7.3.

10.2.4 Definition of “Uninhabitable.” For purposes of this Declaration, “uninhabitable” shall mean that the Board has concluded that the Condominium Property which the Association is required to insure cannot be restored to the condition (or a better condition) in which it existed prior to the Casualty or covered cause of loss under the Association’s applicable insurance policy through available insurance proceeds, plus a special assessment against each Unit Owner not to exceed 10% of the average fair market value of the Units, as determined by the Board. This calculation shall not include costs affiliated with those items the Unit Owner is obligated to repair or replace, at the Unit Owner’s expense. A governmental agency’s declaration or order that the Condominium Property may not be occupied for a defined period of time due to safety concerns shall not conclusively establish that Units are uninhabitable, provided that the Units can be made safe for occupancy pursuant to the standards set forth above. In the event of a dispute as to whether or not Units are “habitable,” a resolution enacted by the Board shall be binding on all parties, unless wholly arbitrary or contrary to law.

10.3 Responsibility for Repair. All reconstruction work after a Casualty or covered cause of loss under the Association’s applicable insurance policy for damaged items that the Association insures shall be undertaken by the Association, except that a Unit Owner may undertake reconstruction work on portions of the Unit with the prior written consent of the Board. However, such work, and the disbursement of insurance proceeds, may be conditioned upon the approval of the repair methods, the qualifications of the proposed contractor, the contract that is used for that purpose, and reasonable verification of appropriate steps to ensure that the work is done and that the contractor is paid for the performance of said work. Unit Owners shall be responsible for reconstructing those items that the Unit Owners are required to insure. All required governmental permits and approvals must be obtained prior to commencing reconstruction. Assessments for the cost of the work shall be set forth in Subsection 10.5 below. If an Owner fails to repair and reconstruct those items that the Unit Owner is responsible for under this Declaration, the Association shall have, without waiver of other remedies, the right to proceed in accordance with Subsection 6.3, in which event the Unit Owner shall be charged for the costs of such activities (including attorney’s fees incurred by the Association) by the Association and such charges shall be enforceable as an Assessment pursuant to §718.111(11)(g) or (j) of the Act.

10.4 Estimates of Costs. After a determination is made to rebuild or repair damage to property for which the Association or Unit Owner has the responsibility of reconstruction and repair, the Association or Unit Owner shall obtain, promptly, reliable and detailed estimates of the cost to rebuild or repair.

10.5 Assessments. Any portion of the Condominium Property that must be insured by the Association against property loss which is damaged by a Casualty shall be reconstructed, repaired or replaced as necessary by the Association as a Common Expense. All property insurance deductibles and other damages in excess of property insurance coverage under the property insurance policies maintained by the Association shall be considered a Common Expense, pursuant to §718.111(11)(j) of the Act, except that a Unit Owner is responsible for the costs of repair or replacement of any portion of the Condominium Property not paid by insurance proceeds if such damage is caused by intentional conduct, negligence, or failure to comply with the terms

of the Declaration or the Rules by a Unit Owner, the members of his or her family, unit occupants, tenants, guests, or invitees, without compromise of the subrogation rights of the insurer, if any. Furthermore, notwithstanding anything herein to the contrary, the Association is not obligated to pay for reconstruction or repairs of a Casualty or covered cause of loss as a Common Expense if the losses were known or should have been known to a Unit Owner and were not reported to the Association until after the insurance claim of the Association for that property was settled or resolved with finality, or denied because it was untimely filed. If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction or 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 property covered by the Association's property insurance policy shall be in proportion to all of the Owners' respective shares in the Common Elements.

10.6 Damage Caused By Wear and Tear of the Condominium Property. Damage to the Condominium Property that is not caused by a Casualty or covered cause of loss under the Association's applicable insurance policy, shall be repaired or replaced in accordance with the provisions of Section 6 and shall not be subject to this Section 10.

10.7 Termination of Condominium if Not Reconstructed. If the Owners vote not to reconstruct the Condominium by vote described in Subsection 10.2.2 hereof, the Condominium shall be terminated in accordance with the procedures set forth in Section 16 hereof.

10.8 Additional Board Authority. In addition to Board authority granted by law and the Condominium Documents, the Board shall have the following power and authority in connection with emergency conditions:

10.8.1 To determine after a Casualty whether the Units can be safely occupied, which decision shall not be conclusive as to the determination of habitability in Subsection 10.2. Such decision shall be based upon the advice of emergency management officials or a licensed professional.

10.8.2 To declare any portion of the Condominium Property or Association Property unavailable for occupancy after a Casualty, including during the rebuilding process. Such decision by the Board shall be based upon the advice of emergency management officials or a licensed professional (such as an engineer) and can be made only if necessary to protect the health, safety, or welfare of the Association or its Members.

10.8.3 To mitigate damage and take action to prevent the spread of fungus (including but not limited to mold and mildew) by tearing out wet drywall and carpet (even if the Unit Owner is obligated to insure and/or replace those items) and to remove personal property from the Unit and dispose of damaged property or store such property onsite or at an offsite location, with Owners responsible for reimbursing the Association for items for which the Owner is responsible but which may be necessary to prevent further damage. The Association shall bear no liability for such actions, if taken in good faith.

10.8.4 To contract on behalf of Unit Owners, with said Owners responsible to reimburse the Association, for items for which the Owner is responsible, but which may be necessary to prevent further damage. Without limitation, this includes debris removal, dry-out of Units and replacement of damaged air conditioners when necessary to provide climate control in the Units. The Unit Owner shall be responsible to reimburse the Association within ten (10) days of the Association's invoice. The Association's right to payment shall be secured by a Common Expense Lien as provided in the Act and actions to collect such sums shall entitle the Association to recover interest, late fees, attorney's fees, and other costs and expenses of collection.

10.8.5 To implement a disaster plan prior to, during or after an impending disaster including, but not limited to, shutting down electricity, water, security systems, and air conditioners.

10.8.6 To adopt, by Board action, emergency assessments with such notice deemed practicable by the Board.

10.8.7 To adopt emergency Rules governing the use and occupancy of the Units, Common Elements, Limited Common Elements, and Association property, with notice given only to those Directors with whom it is practicable to communicate.

10.8.8 To enter into agreements with local counties and municipalities to assist counties and municipalities with debris removal.

10.8.9 Without Unit Owners' approval, borrow money and pledge Association assets as collateral to fund emergency repairs and carry out the duties of the Association when operating funds are insufficient.

10.8.10 To exercise all emergency powers set forth in the Act, including specifically, those powers enumerated in §718.1265 of the Act under the conditions stated therein.

11. CONDEMNATION.

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

11.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be decided in the same manner as repair after Casualty as set forth in Subsection 10.2 hereof.

11.3 Distribution of Funds. If the Condominium is terminated after condemnation, the

proceeds of all awards and special assessments will be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a Casualty. If the Condominium is not terminated after condemnation, the size of the Condominium may be reduced. The Owners of condemned Units, if any, will share in awards and special assessments as provided below.

11.4 Association as Agent. The Association is hereby irrevocably appointed as each Unit Owner's attorney-in-fact for purposes of negotiating or litigating with the condemning authority for the purpose of realizing just compensation for the taking.

11.5 Units Reduced but Habitable. If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable, the awards for the taking of a portion of that Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

11.5.1 Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be assessed against the Owner of the Unit.

11.5.2 Distribution of Surplus. The balance of the award, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and mortgagee(s).

11.5.3 Adjustment of Shares in Common Elements. If the floor area of a Unit is reduced by the taking, then the shares of all Units in the Common Elements and Common Surplus, including the Unit whose size was reduced, shall be restated as percentages of the total square footage of all of the Units as reduced by the taking.

11.6 Units Not Habitable. If the taking is of any entire Unit or so reduces the size of the Unit that it cannot be made habitable, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

11.6.1 Payment of Award. The condemnation award immediately prior to the taking shall be paid to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and mortgagee(s).

11.6.2 Addition to Common Elements. If possible and practical, the remaining portion of the Unit shall become a part of the Common Elements and shall be placed in condition for use by all Unit Owners in the manner approved by the Board.

11.6.3 Assessments. If the amount of the award for the taking is not sufficient to pay the fair market value of the condemned Unit to the Unit Owner and to recondition the remaining portion of the Unit, the amount required for those purposes shall be raised by special assessment against all of the Unit Owners who will continue as Owners of any Unit after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion

to the shares of those Owners in the Common Expenses after the changes effected by the taking.

11.7 Taking of Common Elements. Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in the manner approved by the Board. The balance of such awards, if any, may be returned to the Unit Owners or used by the Association as the Board may determine.

11.8 Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements that are necessitated by condemnation, shall be evidenced by an amendment of the Declaration of Condominium that need be approved only by a majority of all Directors of the Board.

12. USE RESTRICTIONS. All Owners agree to abide by this Declaration, the Bylaws and Rules.

12.1 Occupancy. In no event shall occupancy of a Unit exceed two (2) persons per bedroom in the Unit, except for temporary occupancy by visiting guests.

12.2 Garages. Garage doors shall be required to remain in place at all times, and no construction or conversion shall change the interior or exterior of any garage to interfere with the use of it as a storage place for automobiles and personal items.

12.3 Vehicles. Automobiles and any other vehicles must be operational. No vehicle repairs (except minor emergencies) shall be made in any portion of the Condominium Property or Association Property except within a closed garage.

12.4 Animals. Residents may have dogs, cats and/or birds as pets, however, no monkeys, rodents, poultry, swine, livestock, or other exotic animals shall be raised, bred, or kept on any Condominium Parcel or on the Common Elements or Association Property. In the sole opinion of the Board should any pet become a nuisance or source of annoyance to any other Owners or Residents, such animals shall be permanently removed from the Unit upon three-day written notice. Pet owners shall not allow any pet to use the Common Elements or Association Property except when on a hand-held leash accompanied by its owner and then only so long as the pet does not make a mess or otherwise disturb the Common Elements. Pet owners shall not allow any pet to leave any droppings or otherwise disturb the Common Elements, Association Property or Condominium Parcels. Pet owners must have with them when they are walking their pet outside their Unit a means to remove droppings and dispose of them in a sanitary manner and must do so.

12.5 Television and Other Outdoor Antennae. No wires, masts, towers, antennae, aerial, weathervanes, anemometers, or exposed wiring for any purpose or other equipment or structures may be erected, constructed or maintained on the exterior of any Unit nor in any of the Common Elements except by the Association or except with the prior written consent of the Board, and except as follows. Satellite dishes less than eighteen inches (18") in diameter shall be permitted within a Unit or on a Limited Common Element appurtenant thereto. Any such satellite dish shall be screened from view from other Units or the Common Elements and shall be installed in the least obtrusive location where the signal may be received.

12.6 Signs. No signs, advertising or notices of any kind or type, shall be permitted to be displayed on the exterior of a Unit or on any Limited Common Elements or Common Elements, nor shall the same be permitted or displayed in such a manner as to be visible from the exterior of any Unit. Signs, regardless of size, used by Declarant, its successors and assigns, for advertising and marketing during the construction and sale of the Condominium shall be exempt from this restriction. Notwithstanding the foregoing, an Owner shall be permitted to install one (1) sign advertising a Unit for sale or for rent, subject to such restrictions thereon as may be adopted by the Board from time to time.

12.7 Flags. Residents shall be permitted to display one (1) portable, removable United States flag in a respectful way and, on Armed Forces Day, Memorial Day, Flag Day, Independence Day, Patriot Day, and Veterans Day, may display in a respectful way portable, removable official flags, not larger than four and one-half feet (4 ½') by six feet (6'), that represent the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard. All other flags, including but not limited to decorative flags, sports team flags, and political flags, shall be expressly prohibited from being displayed at any time.

12.8 Wells. No individual water well, water supply system or sewer system shall be permitted on any Condominium Parcel.

12.9 Dangerous Materials. No Owner shall store, keep or dispose of any flammable, combustible, explosive, hazardous or toxic fluids, chemicals or substances except those sold and required for normal household use.

12.10 Window Treatments. No Owner shall install or maintain aluminum foil or other reflective material on any window or glass door except as approved by the Board for energy conservation purposes.

12.11 Single Family Use. Each Condominium Parcel may be used for single-family residential purposes only. Single family shall mean an individual; or two (2) or more persons related by blood, marriage or adoption, exclusive of household servants, occupying a Unit and living as a single housekeeping Unit; or four (4) or fewer persons not related by blood, marriage or adoption who regularly and customarily reside together as a single housekeeping unit. Under no circumstances may more than one single family reside in a Unit at one time. When used in this Subsection "reside" shall mean occupancy for more than thirty (30) days during any calendar year. Nothing herein shall prevent an Owner from leasing a Unit subject to the conditions and covenants contained in this Declaration, except that the leased Unit shall nonetheless be occupied by a single-family as defined herein.

12.12 Nuisance. No nuisance shall be permitted to exist upon or within the Condominium Property or any conduct that creates an annoyance or disturbance to be detrimental or bothersome to any other occupants of the Condominium Property or interferes with the peaceful possession and proper use of the Condominium by its residents.

12.13 Combining of Adjoining Units. Except as to the Developer pursuant to Subsection 7.2 hereinabove, combining of adjoining Units is not permissible.

12.14 Fences. No fences are permitted except as may have been originally installed by the Developer or as may be installed by the Board from time to time.

12.15 Enclosures. No entranceway, balcony, porch, or deck shall be enclosed, except with the prior written consent of the Board.

12.16 Compliance with Law. No use may be made of any Condominium Parcel that violates any federal, state or local laws, zoning, ordinances or regulations.

12.17 Obstructions. No Owners or occupant may cause or allow any obstruction of a road or other common ways of ingress or egress within the Common Elements, nor shall anything be allowed to remain in Common Elements, Association Property or on the Condominium Parcels which would be unsightly or hazardous.

12.18 Garbage. No rubbish, refuse, garbage or trash shall be permitted to accumulate in places other than approved receptacles (garbage cans). The Board shall have the authority to adopt, as part of its Rules and Regulations, restrictions upon the placement and storage of garbage receptacles.

12.19 Harassment. Members and other residents shall not engage in any abusive, pejorative, or harassing behavior, either verbal or physical, or any form of intimidation or aggression directed at other Members, residents, guests or invitees, or directed at management, its agents, its employees, or vendors.

12.20 Air Conditioning Units. No window mounted or through-the-wall mounted air conditioning unit shall be permitted.

12.21 Safety & Soundness. A Unit Owner shall not do anything within his or her Unit or on the Common Elements which would adversely affect the safety or soundness of the Common Elements or any portion of the Association Property or Condominium Property which is to be maintained by the Association.

13. LEASE AND TRANSFER. In order to promote the health, happiness and peace of the Condominium Property and thus protect the value of the Units, the transfer, occupancy, forms of ownership, and leasing of the Units shall be subject to the following provisions:

13.1 Leasing of Units. The lease or license of a Unit is defined as occupancy of the Unit by any person other than the Owner, whether pursuant to verbal or written agreement, where said occupancy by the non-Owner involves consideration (the payment of money, the exchange of goods, services, points, or any other exchange of value). The terms “leasing,” “licensing,” and “renting” shall be used interchangeably for the purpose of this Declaration. The terms “lease” and “license” shall be used interchangeably for the purpose of this Declaration. The terms “tenant,” “lessee,” and “licensee” shall likewise be used interchangeably in this Declaration.

13.1.1 Single Family Use Only. Only entire Units with their appurtenant Limited Common Elements may be rented or leased. There shall be no subdivision or subletting of Condominium Parcels. "Rent Sharing" or the renting of rooms is prohibited. Tenants may only occupy Units as a single-family residence as defined in this Declaration. Occupancy of Units is restricted as provided in this Section 13 as well as Subsection 12.1.

13.1.2 Application. All leases or licenses must be in writing. All leases and licenses shall be for a minimum period of six (6) consecutive months. Should a Unit Owner wish to lease his Unit, he/she shall furnish the Association with a lease application and a non-refundable one hundred dollar (\$100.00) lease application/review fee, along with a copy of the proposed lease, the name of the proposed lessee, the names of all proposed occupants, and such other information as the Association may reasonably require, including but not limited to proof of conducting a national background check upon proposed tenant and all proposed occupants of the Unit over eighteen (18) years of age. If the Board of Directors determines that the background check conducted by the Unit Owner is insufficient, the Association may elect to conduct a background check upon the proposed tenant and all proposed occupants of the Unit over eighteen (18) years of age and charge a fee for such background check(s).

13.1.3 Board Approval. The Board of Directors shall have the authority to approve all leases and all renewals and/or extensions thereof, which authority may be delegated to a committee of the Association and/or an agent. No person may occupy a Unit as a tenant, family member of a tenant, occupant, or otherwise without prior approval of the Board. The Board shall have the authority to promulgate or use a uniform lease application and require such other information from the proposed tenant and all proposed occupants as the Board deems appropriate under the circumstances. Lease renewals and extensions shall be treated as a new lease subject to application and approval requirements. Any person occupying the Unit after initial approval shall be subject to a separate application and approval process. The Association shall have thirty (30) days from the receipt of notice and all required information within which to approve or disapprove of the proposed lease or proposed lessees or occupants. The Association shall give the Unit Owner written notice of its decision within said period. Any renewal or extension is treated as a new lease and is subject to Board approval.

13.1.4 Board Disapproval. If the Association disapproves a proposed lease or renewal or extension, the Unit Owner shall receive a short statement indicating the reason for the disapproval, and the lease shall not be made, renewed, or extended. The Association shall neither have a duty to provide an alternate lessee nor shall it assume any responsibility for the denial of a lease application if any denial is based upon any of the following factors:

(a) The person seeking approval (which shall hereinafter include all proposed lessees and occupants) has been convicted of or has pleaded no contest to:

(1) a felony involving violence to persons, theft, arson or destruction of property within the past twenty (20) years;

(2) a felony demonstrating dishonesty or moral turpitude within the past ten (10) years;

(3) a felony involving the manufacturing or distribution of illegal drugs within the past ten (10) years;

(4) any other felony in the past five (5) years; and

(5) a felony involving sexual battery, sexual abuse, or lewd and lascivious behavior regardless of when that conviction occurred.

(b) The person seeking approval has been labeled a sexual offender or a sexual predator by any governmental or quasi-governmental agency regardless of when that conviction occurred or when that label occurred.

(c) The person seeking approval has been charged with, but not yet convicted of or adjudicated of, an offense that provides for the assignment of sexual predator status under Florida law, if convicted, including, but not limited to Section 794.011¹, Section 800.04², Section 827.071³, Section 847.0135(5)⁴, or Section 847.0145⁵, Florida Statutes.

(d) The person seeking approval is currently on probation or community control.

(e) The application for approval on its face, facts discovered in connection with the Association's investigation, or the conduct of the applicant, indicate that the person seeking approval intends to conduct himself in a manner inconsistent with the Declaration, the Association's Articles, Bylaws, or rules and regulations. By way of example, but not limitation, a tenant taking possession of the premises prior to approval by the Association as provided for herein shall constitute a presumption that the applicant's conduct is inconsistent with the Declaration, the Association's Articles, Bylaws, or rules and regulations and may constitute grounds for denial.

(f) The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in other housing facilities or associations, or by his conduct in this community as a tenant, resident, occupant or guest.

(g) The Unit Owner or person seeking approval has failed to provide the information, fees or appearances required to process the application in a timely manner or has made material misstatements or withheld material/information during the application process.

¹ Sexual Battery.

² Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.

³ Sexual performance by a child.

⁴ Computer Pornography and Child Exploitation Prevention Act.

⁵ Selling or buying of minors.

(h) The Unit Owner, occupant, or Unit is currently in violation of any Association covenants and restrictions.

(i) All assessments, fines and other charges and monetary obligations against the Unit and/or Owner have not been paid in full.

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

13.1.6 Enforcement. If a tenant, occupant, guest or invitee fails to abide with all covenants, restrictions, and rules, the Unit Owner shall be responsible for the conduct of the tenants, occupants, guests and invitees and shall be subject to all remedies set forth in the Association's Declaration, Articles of Incorporation, Bylaws or rules and regulations, as each may be amended from time to time, and Florida law, without waiver of any remedy available to the Association as to the tenant. The Unit Owner shall have the duty to bring his tenant's conduct (and that of the other occupants, guests and invitees of the Unit) into compliance with the Association's Declaration, Articles of Incorporation, Bylaws or rules and regulations, as each may be amended from time to time, by whatever action is necessary, including without limitation the institution of eviction proceedings without notice to cure, where legally permissible.

The Unit Owner further grants the Association a continuing power of attorney to act as agent for the Unit Owner specifically to terminate any lease and evict or remove the occupants of the Unit in the enforcement of this Section. If the Unit Owner fails to bring the conduct of the tenant into compliance with the Association's Declaration, Articles of Incorporation, Bylaws or rules and regulations, as each may be amended from time to time, in a manner deemed acceptable by the Association, the Association shall have the authority, but not the obligation, to act as agent of the Unit Owner to undertake whatever action it deems appropriate, in its sole discretion, to abate the tenant's noncompliance with the Association's Declaration, Articles of Incorporation, Bylaws or rules and regulations, as each may be amended from time to time (or the other noncompliance of other occupants, guests or invitees), including without limitation the right to terminate the lease or license and institute an action for eviction against the tenant in the name of the Association in its own right, or as agent of the Unit Owner. The Unit Owner hereby grants a continuing power of attorney to the Association to take act as landlord and evict the non-complying occupants.

The Unit Owner and tenant shall be jointly and severally liable to the Association for any and all costs, attorney fees and/or expenses incurred by the Association to make repairs, clean-up, maintenance and/or replacement or to pay any claim for injury and/or damage to any portion of the Association property resulting from, related to, arising from and/or associated with the willful actions, the omissions and/or the negligence of the tenant.

The Association shall have the right to recover, and the Unit Owner and tenant shall be jointly and severally liable for any and all costs or fees, including attorneys' fees, incurred in connection with enforcement of this Section, including pre-suit costs and attorneys' fees, which shall be secured by a continuing lien in the same manner as assessments for common expenses, and secured by a claim of lien that may be foreclosed by the Association. Any lease shall provide or be deemed to provide that the Association shall have the authority to direct that all rental income related to the Unit be paid to the Association until all past due and current obligations of the Association have been paid in full, including but not limited to all past due assessments, charges, other monetary obligations, late fees, interest, attorneys' fees and cost and expenses of collection.

13.1.7 Tourist Development Tax. The lease of a Unit for a term of six (6) months or less is subject to a tourist development tax assessed pursuant to section 125.0104, *Fla. Stat.* Since Unit are permitted to lease their Units for six (6) months or more, any Unit Owner leasing his or her Unit for a term of exactly six (6) months agrees, and shall be deemed to have agreed, for such Owner, and his or her heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, and its agents, the Developer, and all other Unit Owners harmless from and to indemnify them for any and all costs, claims, damages, expenses or liabilities whatsoever, arising out of the failure of such Unit Owner to pay the tourist development tax and/or any other tax or surcharge imposed by the State of Florida, Volusia County or other municipality with respect to rental payments or other charges under the lease, and such Unit Owner shall be solely responsible for and shall pay to the applicable taxing authority, prior to delinquency, the tourist development tax and/or any other tax or surcharge due with respect to rental payments or other charges under the lease.

13.2 Transfers Subject to Approval.

13.2.1 Sale or Other Transfer. No Unit Owner may dispose of a Unit or any interest in same by sale or other title transfer, without prior written approval of the Board of Directors. No Unit Owner may dispose of a Unit or any interest therein by other means (including agreement for deed, installment sales contract, lease-option, or other similar transactions) without the prior written approval by the Board of Directors.

13.2.2 Gift. If any Unit Owner is to acquire his/her title by gift, his/her ownership of his/her Unit shall be subject to the prior written approval of the Board of Directors. Notice must be given to the Association at least thirty (30) days prior to the intended closing or title transfer date.

13.2.3 Devise or Inheritance. If any person shall acquire his/her title by devise, inheritance, through other succession laws, the continuance of his/her ownership of his/her Unit shall be subject to the written approval of the Board of Directors.

13.2.4 Other Transfers. If any Unit Owner shall acquire his/her title by any manner not considered in the foregoing provisions of this Declaration, the continuance of his/her ownership of such Unit shall be subject to the written approval of the Board of Directors. If any person acquires title in any manner not considered in the foregoing provisions of this Declaration,

that person shall have no right to occupy or use the Unit before being approved by the Board of Directors under the procedures outlined below.

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

13.3.1 Notice to Board of Directors.

(a) **Sale or Other Transfer.** A Unit Owner intending to make a bona fide sale or other title transfer of his/her Unit or any interest in it, including gifts, transfers to artificial entities, and the grant of partial estates, shall give to the Board of Directors notice of such intention, together with the name and address of the intended grantee, an executed copy of the purchase contract and its exhibits, or other documentation evidencing the transfer and such other information concerning the intended grantee and the transaction as the Board of Directors may reasonably require. The Board may require, without limitation, credit history, a criminal background investigation, past residency or employment verification, personal references, and a personal interview with the purchaser(s) and all proposed Unit occupants.

(b) **Devise or Inheritance.** A Unit Owner who has obtained his title by devise or inheritance, or operation of succession laws, shall give to the Board of Directors notice of the acquiring of his title, together with such information concerning the Owner as the Board of Directors may reasonably require, including that set forth herein above, and a certified copy of the instrument evidencing the Unit Owner's title.

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

13.3.2 Certificate of Approval.

(a) **Sale or Other Title Transfer.** If the proposed transaction is a sale or other prospective title transfer, then within thirty (30) days after receipt of such notice and information, the Board of Directors must either approve or disapprove the proposed transaction.

(b) **Devise or Inheritance.** If the Unit Owner giving notice has acquired his title by devise, inheritance, or through succession law, then within thirty (30) days after receipt of such notice and information, the Board of Directors must either approve or disapprove the continuance of the Unit Owner's ownership of his/her Unit.

(c) **Approval of Occupant.** If the grantee is a corporation, partnership, trust, limited liability company, some other entity, or more than one individual who are not husband and wife, the approval of ownership by the corporation, partnership, trust, other entity, or multiple persons shall be conditioned upon approval of a primary occupant.

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

13.4.1 Sale or Other Arms-Length Transaction to Bona Fide Third Party. If the proposed transaction is a sale or other arms-length transfer to a bona fide third party purchaser, and has been disapproved without good cause, then within thirty (30) days after receipt of such notice and information, the Association shall deliver or mail by certified mail to the Unit Owner an agreement to purchase the Unit concerned by a purchaser approved by the Board of Directors, or the Association itself, who will purchase and to whom the Unit Owner must sell the Unit upon the following terms:

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

(b) The purchase price shall be paid in cash. The sale shall be closed within thirty (30) days after the delivery or mailing of the agreement to purchase, or within ten (10) days after the determination of the sale price if such is by arbitration, whichever is the later. If the Association shall fail to itself purchase the Unit, or provide a purchaser, or if a purchaser furnished by the Association or the Association shall default in his agreement to purchase, then notwithstanding the disapproval, the proposed transaction shall be deemed to have been approved and the Association shall furnish a certificate of approval.

13.4.2 Gifts; Devise; Inheritance; Familial Transfers. If the Unit Owner giving notice has acquired or will acquire his title by gift, devise, inheritance, or succession laws or in any other manner, and if the Board wishes to disapprove the transfer or continuance of ownership without good cause, then within thirty (30) days after receipt from the Unit Owner of the notice and information required to be furnished, the Board of Directors shall deliver or mail by certified mail to the Unit Owner an agreement to purchase the Unit concerned by a purchaser approved by the Board of Directors (including the Association itself) who will purchase and to whom the Unit Owner must sell the Unit upon the following terms:

(a) The sale price shall be the fair market value determined by agreement between the grantor and grantee within thirty (30) days from the delivery or mailing of such agreement. In the absence of agreement as to price, or where transfers are made for less and bona fide value, the price shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers, one of whom shall be appointed by the Association and the other of whom shall be appointed by the Unit Owner, who shall base their determination upon an average of their appraisals of the Unit;

and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be shared by the parties.

(b) The purchase price shall be paid in cash. The sale shall be closed within ten (10) days following the determination of the sale price. If the Association shall fail to purchase the Unit or provide a purchaser, or if the Association or a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval, such transfer ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided.

13.4.3 Disapproval for Good Cause. Disapproval of title transfers and/or the continuation of ownership pursuant to this Article shall be made by the Board of Directors, if it is determined that the potential Unit Owner does not facially qualify for membership in the Association, or if the proposed transaction will result in a violation of this Declaration, the Association's Articles of Incorporation, Bylaws, or any rules and regulations, all as amended from time to time. Only the following may be deemed to constitute good cause for disapproval on the grounds that the proposed purchaser does not facially qualify for membership in the Association or the proposed transaction will result in a violation of this Declaration, the Association's Articles of Incorporation, Bylaws, or any rules and regulations, all as amended from time to time:

(a) The application for approval on its face, or subsequent investigation thereof, indicates that the person seeking approval (which shall hereinafter include all proposed occupants) intends to conduct himself in a manner inconsistent with this Declaration, the Association's Articles of Incorporation, Bylaws, or any rules and regulations, all as amended from time to time;

(b) The person seeking approval (which shall hereinafter include all proposed occupants) has been convicted of or has pleaded no contest to:

(1) a felony involving violence to persons, theft, arson or destruction of property within the past twenty (20) years; or

(2) a felony demonstrating dishonesty or moral turpitude within the past ten (10) years; or

(3) a felony involving the manufacturing or distribution of illegal drugs within the past ten (10) years;

(4) any other felony in the past five (5) years; or

(5) a felony involving sexual battery, sexual abuse, or lewd and lascivious behavior regardless of when that conviction occurred;

(c) The person seeking approval has been labeled a sexual offender or a sexual predator by any governmental or quasi-governmental agency regardless of when that conviction occurred or when that label occurred;

(d) The person seeking approval has been charged with, but not yet convicted of or adjudicated of, an offense that provides for the assignment of sexual predator status under Florida law, if convicted, including, but not limited to Section 794.011⁶, Section 800.04⁷, Section 827.071⁸, Section 847.0135(5)⁹, or Section 847.0145¹⁰, Florida Statutes.

(e) The person seeking approval is currently on probation or community control;

(f) The person seeking approval has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures, or bad debts;

(g) The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his/her conduct in other social organizations or associations, or by his/her conduct in this Condominium or other residences as a tenant, occupant, guest and/or owner;

(h) The person seeking approval failed to provide and/or failed to truthfully provide the information, fees or appearance required to process the application in a timely manner;

(i) The Unit Owner requesting the transfer has had fines assessed against him or her which have not been paid; or

(j) All assessments and other charges against the Unit have not been paid in full.

If the Board disapproves a transfer for good cause, the Association shall have no duty to purchase the Unit and/or to furnish an alternate purchaser for the Unit, and the transaction shall not be made, or if made, shall be subject to rescission in the manner determined by the Board.

13.5 Transfer Fees. The Board may require the payment of a preset transfer fee in connection with the sale of a Unit. Said transfer fee is presently set in the amount of \$150.00 per applicant, such amount to change from time to time by action of the Board.

⁶ Sexual Battery.

⁷ Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.

⁸ Sexual performance by a child.

⁹ Computer Pornography and Child Exploitation Prevention Act.

¹⁰ Selling or buying of minors.

13.6 Developer Exemption. Notwithstanding anything herein to the contrary, the provisions of this Section 13.2, 13.3, 13.4, and 13.5, imposing restrictions on the transfer of Units other than by lease, shall not be applicable to Units owned by the Developer.

14. AMENDMENTS. Except as elsewhere provided herein, this Declaration may be amended in the following manner:

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

14.2 Notice. The subject matter of a proposed amendment, other than an amendment adopted by the Developer alone, shall be included in the notice of any meeting at which a proposed amendment is to be considered. No provision of the Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of the Declaration shall contain the full text of the provision to be amended; new words shall be inserted in the text and underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Declaration. See provision _____ for present text." Nonmaterial errors or omissions in the amendment process shall not invalidate an otherwise properly adopted amendment.

14.3 Adoption of Amendments. An amendment so proposed may be adopted by a vote of a majority of the Voting Interests present (in person or by proxy) and voting at a duly noticed meeting of the Association at which a quorum is present. Amendments correcting errors, omissions, scrivener's errors, violations of applicable law, or conflicts between the Condominium Documents, may be executed by the Officers of the Association, upon Board approval, without need for Association membership vote, except that if such amendment would materially or adversely affect property rights of Unit Owners, such adversely affected Unit Owner must consent to such amendment in writing.

14.4 Execution and Recording. An amendment, other than amendments made by the Developer alone, shall be evidenced by a certificate of the Association that must include recording data identifying the Declaration and be executed in the form required for execution of a deed. An amendment of the Declaration is effective when properly recorded in the public records of Volusia County.

14.5 Material Amendments. Except as provided in Subsection 14.8 hereinbelow, 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 proportion or percentage by which the Owner of a Unit shares the Common Expenses and owns the Common Elements and Common Surplus (any such change or alteration being a "Material Amendment") unless the record Owner(s) thereof, and all record owners of mortgages or other liens thereof, join in the execution of the amendment, and unless (i) during the time the Developer has the right to elect a majority of the Board, the Developer approves such Material Amendment and at least a majority of the total

Voting Interests in the Condominium approve such Material Amendment; or (ii) after the Developer no longer has the right to elect a majority of the Board, all record owners of all other Units in the Condominium approve such Material Amendment. The acquisition of property by the Association and material alterations or substantial additions to Association Property or the Common Elements by the Association in accordance with Subsection 7.3 hereof and amendments providing for the transfer of use rights in limited common elements shall not be deemed to constitute a Material Amendment.

14.6 Mortgagee's Consent. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to any Institutional First Mortgagees without the consent of 66.67% of such mortgagees in each instance. Except as specifically provided herein or if required by FNMA or FHLMC, the consent and/or joinder of any lien or mortgage holder on a Unit shall not be required for the adoption of an amendment to this Declaration and, whenever the consent or joinder of a lien or mortgage is required, such consent or joinder shall not be unreasonably withheld.

14.7 Department Consent. Any amendment that alters the Surface Water or Stormwater Management System, beyond maintenance in its original condition, including mitigation or preservation areas and the water management portions of the Condominium Property, must have the prior approval of the DEP. The DEP has the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the Surface Water or Stormwater Management System.

14.8 By the Developer. Notwithstanding anything herein contained to the contrary, during the time the Developer has the right to elect a majority of the Board, any of the Condominium Documents may be amended by the Developer alone, without requiring the consent of any other party, to effect any change whatsoever, except for an amendment (i) to permit time-share estates (which must be approved, if at all, by all Unit Owners and all mortgagees on Units), or (ii) to effect a "Material Amendment" (as defined in Subsection 14.5 above) or (iii) to effect changes or amendments prohibited to be made by the Developer or by the Association pursuant to the Act. The unilateral amendment right set forth herein shall include, without limitation, the right to correct scrivener's errors. No amendment to this Declaration, the Articles or the By-Laws – whether approved during the time the Developer is entitled to elect a majority of the Board or thereafter - may be adopted which would eliminate, modify, alter, prejudice, abridge or otherwise adversely affect, in any manner, any rights, benefits, privileges or priorities granted or reserved to the Developer, without the prior written consent of the Developer in each instance. An amendment by the Developer hereunder shall be in writing, but a certificate of the Association is not required.

15. ENFORCEMENT.

15.1 In the event of a violation of the Condominium Documents by an Owner, or the occupant, licensee or invitee of an Owner (other than the non-payment of any Assessment or other Charges), the Association shall notify the Owner and the occupant, licensee or invitee as applicable, of the violation, by written notice. If such violation is not cured as soon as practicable after receipt of such written notice, or if any similar violation is thereafter repeated, the Association may, at its option:

15.1.1 Impose a fine against the Owner, occupant, licensee or invitee as provided in Florida Statutes and in the Bylaws; and/or

15.1.2 Commence an action to enforce the performance on the part of the Owner or other person, or for such equitable relief as may be necessary under the circumstances, including injunctive relief; and/or

15.1.3 Commence an action to recover damages; and/or

15.1.4 Take any actions reasonably necessary to correct such failure which action may include, when applicable, but shall not be limited to, removing any addition, alteration, improvement or change which has not been approved by the Association or performing any Maintenance required to be performed by this Declaration; and/or

15.1.5 Elect any or all other remedies, restrictions or penalties available under law. All expenses incurred by the Association in connection with enforcing these Condominium Documents, including reasonable attorneys' fees and costs, shall constitute a Charge against the Owner, and shall be due upon written demand by the Association.

15.2 Attorneys Fees. Enforcement of Condominium Documents may be by proceeding at law for damages or in equity to compel compliance with its terms or to prevent violation or breach of any of the covenants or terms herein and the prevailing party in any such action is entitled to recover reasonable attorneys' fees from the non-prevailing party.

15.3 Responsibility of Owner. Each Owner shall be responsible for the acts and omissions, whether negligent or willful, of any person residing in his Unit, including family members, tenants, guests and invitees if any act or omission shall result in any damage to the Common Elements, or any liability to the Association, the Owner shall be charged for same. Furthermore, any violation of any of the provisions of these Condominium Documents, by a resident of any Unit, or a guest or invitee, shall also be deemed a violation by the Owner, and shall subject the Owner to the same liability as if such violation was that of the Owner.

16. TERMINATION. The Condominium may be terminated under any one of the following alternatives:

16.1 Termination Because of Economic Waste or Impossibility. Notwithstanding anything to the contrary in this Declaration, the condominium form of ownership may be terminated by a plan of termination approved by the percentage of Voting Interests necessary to amend the Declaration when:

16.1.2 the total estimated cost of repairs necessary to restore the improvements to their former condition or bring them into compliance with applicable laws or regulations exceeds the combined fair market value of all Units in the Condominium after completion of the repair; or

16.1.3 it becomes impossible to operate or reconstruct the Condominium in its

prior physical configuration because of land use laws or regulations.

It is the intent of this provision to incorporate §718.117(2) of the Act.

16.2 Optional Termination. The condominium form of ownership may be terminated pursuant to a plan of termination approved by at least eighty percent (80%) of the total Voting Interests of the Condominium if not more than ten percent (10%) of the total Voting Interests of the Condominium have rejected the plan of termination by negative vote or by providing written objections thereto. It is the intent of this provision to incorporate the provisions of §718.117(3) of the Act.

16.3 Very Substantial Damage. If the Condominium suffers major damage as defined in Subsection 10.2.2, which shall mean that more than one-half the Units in the Condominium are rendered uninhabitable as determined in the sole discretion of the Board, the Condominium may be terminated if seventy-five percent (75%) of the total Voting Interests in the Condominium vote to approve a plan of termination.

16.4 Mortgage Lienholders. Notwithstanding any provision to the contrary in this Declaration or the Act, approval of a plan of termination by the holder of a recorded mortgage lien affecting a Condominium Parcel is not required unless the plan of termination would result in less than the full satisfaction of the mortgage lien affecting the Condominium Parcel. If such approval is required and not given, a holder of a recorded mortgage lien who objects to a plan of termination may contest the plan as provided in §718.117(16) of the Act.

16.5 Procedures for Termination and Sale. The termination of the Condominium via either of the methods set forth in Subsections 16.1 or 16.2 herein shall be as set forth in §718.117(4) – (20) of the Act.

17. ADDITIONAL RIGHTS OF MORTGAGEES. Any holder, insurer or guarantor of a mortgage on a Unit shall have, if first requested in writing, the right to receive a copy of the financial statements of the Association for the immediately preceding fiscal year and timely notice of:

17.1 Any condemnation or Casualty loss affecting a material portion of the Condominium Property or the affected mortgaged Unit;

17.2 A sixty (60) day delinquency in the payment of Assessments or any Charges on a mortgaged Unit;

17.3 The occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association

17.4 Any proposed action which requires the consent of a specified number of mortgage holders.

18. GENERAL PROVISIONS

18.1 No Waiver. No provisions contained in this Condominium Documents shall be deemed to have been waived because of any failure to enforce the same, irrespective of the number of violations or breaches, which may occur.

18.2 Severability. The invalidity in whole or in part of any covenant or restriction, or any Section, Subsection, sentence, clause, phrase, word, or other provisions of the Condominium Documents shall not affect the validity of the remaining portions.

18.3 Notices. Except as provided specifically by law, notices to the Association required or desired hereunder or in the Bylaws may be sent by first class mail or hand delivery to the address as may be designated by from time to time, in writing to the Owners. Except as provided specifically by law, notices to any Owner may be sent by electronic transmission, first class mail or hand delivery to the address as may be designated by him from time to time, in writing to the Association.

18.4 Impact on Developer. If a Developer holds Units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer: (a) Assessment of the Developer as a Unit Owner for capital improvements; or (b) Any action by the association that would be detrimental to the sales of Units by the Developer. However, an increase in Assessments for Common Expenses without discrimination against the Developer shall not be deemed to be detrimental to the sales of Units.

18.5 Exhibits. There are hereby incorporated in this Declaration any materials contained in the exhibits annexed hereto, which under the Act are required to be part of the Declaration.

18.6 Governing Law & Venue. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by the Condominium Documents, said dispute or litigation shall be governed by the laws of the State of Florida, and venue shall lie in Volusia County.

18.7 Ratification. Each Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law, or otherwise) and each occupant by reason of his occupancy shall be deemed to have acknowledged and agreed that all the provisions of Condominium Documents are fair and reasonable in all material respects.

18.8 Plurality; Gender. 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.

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

18.10 Covenant Running with the Land. All provisions of the Condominium Documents, 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 shall inure to the benefit of the Developer and subsequent owner(s) of the Land or any part thereof, or interest therein, and their respective heirs personal representatives, successors and assigns, but he same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public.

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

18.11 Disclaimer of Warranties. Except only for those warranties provided in §718.203 of the Act (and then only to the extent applicable and not yet expired), to the maximum extent lawful Developer hereby disclaims any and all and each and every express or implied warranties, whether established by statutory, common, case law or otherwise, as to the design, construction, sound and/or odor transmission, existence and/or development of molds, mildew, toxins or fungi, furnishing and equipping of the Condominium Property, including, without limitation, any implied warranties of habitability, fitness for a particular purpose or merchantability, compliance with plans, all warranties imposed by statute (other than those imposed by §718.203 of the Act, and then only to the extent applicable and not yet expired) and all other express and implied warranties of any kind or character. Developer has not given, and the Unit Owner has not relied on or bargained for, any such warranties. Each Unit Owner, by accepting a deed to a Unit, or other conveyance thereof, shall be deemed to represent and warrant to Developer that in deciding to acquire the Unit, the Unit Owner relied solely on such Unit Owner's independent inspection of the Unit and the Condominium. The Unit Owner has not received nor relied on any warranties and/or representations from Developer of any kind, other than as expressly provided herein.

18.12 Coastal Construction Control Line. Each Unit Owner, by acceptance of a deed or other conveyance of their Unit, acknowledges and agrees that the Units, the Building and other portions of the Condominium Property may be located in coastal areas partially or totally seaward of the coastal construction control line as defined in Sections 161.502 and 161.053, Florida Statutes. Each Unit Owner is fully apprised of the character of the regulation of property in such coastal areas and thereby expressly waives and releases any claim against Developer as a result of the limitation on improvements or reconstruction resulting from the regulation of property in such coastal areas.

IN WITNESS WHEREOF, this Declaration has been signed by Declarant and joined in by the Association on the respective dates set forth below to reflect the Association's acceptance of

all benefits, duties, responsibilities, obligations and burdens imposed upon it by the provisions of the Condominium Documents.

WITNESSES AS TO DECLARANT:

DECLARANT:

**KKONG 3-7-12-27 LLC – 2344-2376
OCEAN SHORE BLVD. – SERIES 1, A
WYOMING SERIES AND CLOSE LLC,
LLC, a Florida limited liability company**

(Witness 1 - Sign Name)

(Witness 1 – Print Name)

(Post Office Address)

(City/State/Zip)

(Witness 2 – Sign Name)

(Witness 2 – Print Name)

(Post Office Address)

(City/State/Zip)

STATE OF _____
COUNTY OF _____

By:

(Sign Name)

(Print Name)

(Title)

(Post Office Address)

(City/State/Zip)

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20____, by _____, as _____ of KKONG 3-7-12-27 LLC – 2344-2376 OCEAN SHORE BLVD. – SERIES 1, A WYOMING SERIES AND CLOSE LLC, on behalf of the company, who is ☐ personally known to me or who has ☐ produced _____ as identification.

NOTARY PUBLIC

(Sign)

(Print)

State of Florida, At Large
My Commission Expires:

WITNESSES AS TO ASSOCIATION:

ASSOCIATION:

**BAILEY BY THE SEA CONDOMINIUM
ASSOCIATION, INC., a Florida not for
profit corporation**

(Witness 1 - Sign Name)

(Witness 1 – Print Name)

(Post Office Address)

(City/State/Zip)

(Witness 2 – Sign Name)

(Witness 2 – Print Name)

(Post Office Address)

(City/State/Zip)

STATE OF FLORIDA

COUNTY OF _____

By:

(Sign Name)

(Print Name)

(Title)

(Post Office Address)

(City/State/Zip)

The foregoing instrument was acknowledged before me, by means of ☐ physical presence
or ☐ online notarization, this ____ day of _____, 20____, by
_____, as _____ of BAILEY BY THE SEA
CONDOMINIUM ASSOCIATION, INC., a Florida not for profit corporation, on behalf of the
corporation, who is ☐ personally known to me or who has ☐ produced
_____ as identification.

NOTARY PUBLIC

(Sign)

(Print)

State of Florida, At Large

My Commission Expires:

JOINDER OF MORTGAGEE

MAINSTREET COMMUNITY BANK OF FLORIDA, the owner, holder and mortgagee of that certain Mortgage from CREATING MY OWN YES, LLC, recorded at Official Records Book 8304, Page 2872, et. seq. and that Mortgage from CREATING MY OWN YES, LLC, recorded in the Official Records Book 8305, Page 1115, et. seq., of the public records of Volusia County, Florida, encumbering in whole or in part the real property located in Volusia County, Florida, described on Exhibit "A" attached hereto, hereby joins in the execution of the foregoing Declaration of Condominium For Bailey By The Sea, a Condominium, and agrees to be bound by the terms thereof and to subordinate the lien of the Mortgages to the Declaration of Condominium.

**MAINSTREET COMMUNITY BANK OF
FLORIDA a Florida corporation**

Witness 1 - Sign Name

By: _____
Signature

Witness 1 - Print Name

Paul Rountree, President

Witness 2 - Sign Name

Witness 2 - Print Name

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me, the undersigned Notary Public, by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20____, by Paul Rountree, as President of MAINSTREET COMMUNITY BANK OF FLORIDA a Florida corporation, on behalf of the corporation, who is personally known to me to be the President of the corporation that executed the Joinder of Mortgagee and acknowledged the Joinder of Mortgagee to be the free and voluntary act and deed of the corporation, by authority of statute or its articles of incorporation for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Joinder of Mortgagee and in fact executed the Joinder of Mortgagee on behalf of the corporation.

NOTARY PUBLIC

(Sign)

(Print)

State of _____, At Large
My Commission Expires: