

This instrument prepared by and return to:  
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**AMENDED AND RESTATED  
DECLARATION OF CONDOMINIUM  
OF  
OAK FORREST, A CONDOMINIUM**

**WHEREAS**, the Declaration of Condominium of Oak Forrest, a Condominium was recorded in Official Records Book 1014, Page 424 et seq., and rerecorded in Official Records Book 1052, Page 743 et seq., both of the Public Records of Charlotte County, Florida, and has been amended from time to time by recorded instruments, and

**WHEREAS**, Oak Forrest, a Condominium was formed by the merger of two condominiums known as The Oaks I, a Condominium according to the Declaration of Condominium thereof as recorded in Official Records Book 748, Page 1357 et seq., of the Public Records of Charlotte County, Florida, and The Oaks II, a Condominium according to the Declaration of Condominium thereof as recorded in Official Records Book 754, Page 1324 et seq., of the Public Records of Charlotte County, Florida, and

**WHEREAS**, the Board of Directors of the Association proposed and approved additional amendments, and this Amended and Restated Declaration of Condominium, and

**WHEREAS**, this Amended and Restated Declaration of Condominium, including a number of new amendments, was approved by not less than two-thirds of the voting interests of the members participating in person or by proxy at a duly noticed and convened membership meeting held on April 10, 2014.

**NOW THEREFORE**, Oak Forrest Condominium Association, Inc. does hereby amend and restate the Declaration of Condominium of Oak Forrest, a Condominium for the purpose of integrating all of the provisions of the Declaration, together with previously recorded amendments, and recently adopted amendments, and does hereby resubmit the lands described herein to the terms, covenants, conditions, easements and restrictions hereof which shall be covenants running with the Condominium property and binding on all existing and future owners, and all others having an interest in the Condominium lands or occupying or using the Condominium property.

1. **SUBMISSION STATEMENT.** Oak Forrest Condominium Association, Inc. resubmits the real property described in Exhibit "A" (the "Land"), and all improvements erected thereon, and all other property, real, personal, or mixed, intended for use in connection therewith, to the Condominium form of ownership and use in the manner provided by the Florida Condominium Act as it existed on August 1, 1989; excluding therefrom, however, all public utility installations, cable television lines, and other similar equipment (if any) owned by a utility furnishing services to the Condominium, and also excluding therefrom all personal property belonging to individual unit owners.

1.1 **Name.** The name by which this Condominium is to be identified is Oak Forrest, a Condominium.

1.2 **Property Submitted to Condominium Ownership.** The following property is hereby submitted to Condominium ownership:

A. The Land. All those plots or parcels of land situate, lying, and being in Charlotte County, Florida, as more particularly described in Exhibit "A", and graphically shown on Exhibit "B".

B. Improvements. All those improvements now or hereinafter constructed on the land as shown in Exhibit "B" hereto.

2. EFFECT OF DECLARATION. All restrictions, reservations, covenants, conditions, and easements contained herein constitute covenants running with the land and shall rule perpetually unless terminated as provided herein, and shall be binding upon all unit owners as hereinafter defined, and in consideration of receiving and by acceptance of a grant, devise, or mortgage, all grantees, devisees, or mortgagees, their heirs, personal representatives, successors, and assigns, and all parties claiming by, through, or under such persons agree to be bound by the provisions hereof, the Bylaws, and Articles of Incorporation. Both the burdens imposed and the benefits shall run with each unit and as herein defined.

3. DEVELOPMENT PLAN. This Condominium consist of residential buildings containing a total of two hundred seventy two (272) units, numbered as shown on the Condominium Survey and Plot Plan attached as Exhibit "B" (the Survey), together with adjacent lands as more particularly describe in this Declaration. The Survey is also recorded in Plat Book 8, Pages 48A-48C, of the Public Records of Charlotte County, Florida.

4. DEFINITIONS: The terms used in this Declaration and its exhibits shall have the meaning stated below and in Chapter 718, Florida Statutes, unless the context otherwise requires.

4.1 "Apartment" has the same meaning as the term "unit" as defined in the Condominium Act.

4.2 "Apartment Owner" or "Owner" has the same meaning as the term "unit owner" as defined in the Condominium Act, except that for purposes of interpreting use and occupancy restrictions related to units, in cases where a primary occupant has been designated for a unit because of its ownership, the work "owner" refers to the primary occupant and not the record owner.

4.3 "Assessment" means a share of the funds required for the payment of common expenses which from time to time is assessed against the units.

4.4 "Association" means Oak Forrest Condominium Association, Inc., a Florida corporation not for profit, which is the entity responsible for the operation of the Condominium.

4.5 "Association Property" means all property, real or personal, owned by the Association for the use and benefit of the unit owners.

4.6 "Board of Directors" or "Board" means the representative body which is responsible for the administration of the Association, and is the same body referred to in the Condominium Act as the "Board of Administration".

4.7 "Condominium Documents" means and includes this Declaration and all recorded exhibits thereto, as amended from time to time.

4.8 "Family" means one natural person or a group of two or more natural persons each of whom is related to each of the others by blood, marriage or adoption, or not more than two persons not so related, who reside together as a single housekeeping unit.

4.9 "First Degree" means the parents or children of the unit owner. Other relatives are not included within the definition of first degree.

4.10 "Fixtures" means those items of tangible personal property which by being physically annexed or constructively affixed to the unit have become accessory to it and part and parcel of it, including but not limited to, interior partitions, walls, appliances which have been built in or permanently

affixed, and plumbing fixtures in kitchen and bathrooms. Fixtures do not include floor, ceiling or wall coverings.

4.11 "Guests" means any person who is physically present in, or occupies an apartment on a temporary basis at the invitation of the apartment owner, without the payment of consideration.

4.12 "Institutional Mortgagee" means the mortgagee (or its assignee) of a first mortgage against a condominium parcel, which mortgagee is a bank, savings and loan association, mortgage banker, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any agency of the United States of America. The term also refers to any holder of a first mortgage against a condominium parcel which mortgage is guaranteed or insured, as evidenced by a recorded instrument by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private corporation engaged in the business of guaranteeing or insuring residential first mortgage loans, and their successors and assigns.

4.13 "Lease" means the grant by a unit owner of a temporary right of use of the owner's unit for valuable consideration.

4.14 "Limited Common Elements" means and includes those common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

4.15 "Occupant" or "Occupy", when used in connection with a unit, means any person who is physically present in a unit on two or more consecutive days, including staying overnight.

4.16 "Primary Institutional Mortgagee" means that institutional mortgagee which, at the time a determination is made, holds more first mortgages on units in the Condominium than any other institutional mortgagee, such determination to be made by reference to the number of units encumbered, and not by the dollar amount of such mortgages.

4.17 "Primary Occupant" means the natural person approved for occupancy when title to a unit is held in the name of two or more people, or by a trustee or a corporation or other entity which is not a natural person.

4.18 "Rules and Regulations" means the rules and regulations promulgated by the Board of Directors, as they may exist from time to time, concerning the use of the condominium property (common elements and units), and the operation of the Association.

5. Intentionally Omitted.

6. UNITS:

6.1 The units are identified as follows:

A. Unit Numbers. Each unit is separately identified, and no unit bears the same designation as any other unit. Units are referred to by the use of a building *letter*, followed by a three digit apartment number.

B. Location. The unit numbers and the location of each unit are shown on the Survey.

C. Size. The dimensions of each unit are shown on the typical unit floor plans set forth on the Survey.

D. Unit Boundaries. Each unit shall include that part of the building that lies within the following boundaries:

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:

(a) Upper Boundaries. The horizontal plane of the unfinished lower surface of the ceiling of the unit.

(b) Lower Boundaries. The horizontal plane of the unfinished upper surface of the concrete floor of the unit.

E. Perimetrical Boundaries. The parametrical boundaries of the unit shall be the vertical planes of the unfinished interior surfaces of the plasterboard walls bounding the unit as shown on the Survey, extended to their planar intersections with each other and with the upper and lower boundaries.

F. Interior Walls. No part of the non-structural interior partition walls within an apartment shall be considered part of the boundary of a unit.

G. Apertures. Where there are apertures in any boundary, including, but not limited to, windows and doors, the parametrical boundaries shall extend to the interior unfinished surfaces of such apertures, and their frameworks thereof. Exterior surfaces made of glass or other transparent material and all interior framings, casings and hardware therefore, shall be included in the unit.

H. Excluded from Units. Any pipes, wires, conduits, or other utilities running through the interior walls of a unit which serve more than one (1) unit, although within unit boundaries, shall be common elements.

In cases not specifically covered in this Section 6.1, or in any case of conflict or ambiguity, the Survey shall control in determining the boundaries of a unit, except the provisions of 6.1 (G) above shall control over the Survey.

## 7. CONDOMINIUM PARCELS; APPURTENANCES AND USE:

7.1 The Condominium contains two hundred seventy two (272) units. The owner of each unit shall also own a two hundred seventy second (1/272) undivided share in the common elements and the common surplus.

7.2 Appurtenances to Each Unit. The owner of each unit shall have certain rights and own a certain interest in the Condominium property, including without limitation the following.

A. An undivided ownership share in the Land and other common elements and the common surplus, as specifically set forth above.

B. Membership and voting rights in the Association, which shall be acquired and exercised as provided in the Amended and Restated Articles of Incorporation and Amended and Restated Bylaws of the Association, attached hereto as Exhibits "C" and "D" respectively.

C. The exclusive right to use the limited common elements reserved for the unit, and the right to use the common elements.

D. 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. An easement in airspace which is vacated shall be terminated automatically.

E. Other appurtenances as may be provided in this Declaration and its exhibits.

Each unit, together with its appurtenances, constitutes a "condominium parcel".

7.3 Use and Possession. A unit owner is entitled to exclusive use and possession of his unit. He is entitled to use the common elements in accordance with the purposes for which they are intended, but no use may unreasonably interfere with the rights of other unit owners or other persons having rights to use the condominium property. No unit may be divided or any fractional portion sold, leased or otherwise transferred. The use of the units, common elements and limited common elements shall be governed by the condominium documents and by the rules and regulations adopted by the Association, through its Board, as set forth in the Bylaws.

## 8. COMMON ELEMENTS: EASEMENTS:

8.1 Definition. The term "common elements" means all portions of the Condominium property not included within the units, and includes without limitation the following:

- A. The Land.
- B. All portions of the buildings and other improvements not included within the units, including limited common elements.
- C. Easements through units for conduits, ducts, plumbing, wiring, and other facilities for furnishing utility services to units and the common elements.
- D. An easement of support in every portion of the Condominium which contributes to the support of a building.
- E. The property and installations required for furnishing utilities and other services to more than one unit or to the common elements.

8.2 Easements. Each of the following easements and easement rights is reserved through the Condominium property and is a covenant running with the land of the Condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any land from the Condominium. None of the easements specified in this section may be encumbered by any leasehold or lien other than those on the Condominium parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of unit owners with respect to such easements.

A. Utility and other Easements. The Association has the power, without the joinder of any unit owner, to grant easements such as electric, gas, cable television, or other utility or service easements, or relocate any existing easements, in any portion of the common elements, and to grant access easements or relocate any existing access easements in any portion of the common elements, as the Association shall deem necessary or desirable for the proper operation and maintenance of the Condominium. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the units. The Association may also transfer title to utility-related equipment, facilities or material, and to take any other action to satisfy the requirements of the utility company or governmental agency to which any such utility-related equipment, facilities or material are to be so transferred.

B. Encroachments. If any unit encroaches upon any of the common elements or upon any other unit for any reason other than the intentional act of the unit owner, or if any common element encroaches upon any unit, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.

C. Ingress and Egress. A non-exclusive easement shall exist in favor of each unit owner and occupant, their respective guests and invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the common elements as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and

across such portions of the common elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways.

8.3 Restraint Upon Separation and Partition. The undivided share of ownership in the common elements and common surplus appurtenant to a unit cannot be conveyed or encumbered separately from the unit and shall pass with the title to the unit, whether or not separately described. No action shall lie for partition of the common elements. The shares in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to the units.

## 9. LIMITED COMMON ELEMENTS:

9.1 Description of Limited Common elements. Certain common elements have been designated as limited common elements, reserved for the use of a particular unit or units, to the exclusion of the other units. The limited common elements and the units to which their use has been designated are as described in this Declaration and as further identified on the attached Survey. The following common elements are hereby designated as limited common elements:

A. Parking Spaces. The Association has designated certain parking spaces as limited common elements. These parking spaces have been assigned to the exclusive use of specific units by way of the survey and plot plan and have been coordinated into a "Master Plan". The Master Plan is part of the official records of the Association and is available for inspection upon request. There shall be one (1) parking space for each unit. The Board may assign on a temporary basis only a second parking space upon request. Failure to comply with the provisions of the Condominium Documents, rules and regulations and Lease Agreement, if applicable, shall result in automatic revocation of the second assigned parking space. The cost of maintenance of all parking spaces shall be a common expense. The Board shall make rules and regulations regarding parking which shall be binding on all owners, lessees and guests.

B. Air Conditioning and Heating Equipment. All equipment, fixtures and installations located outside of a unit, which furnish air conditioning or heating exclusively to that unit, shall be limited common elements, and shall be maintained, repaired and replaced solely at the expense of the owner of the unit.

C. Lanais. The airspace above the unfinished concrete surface of any lanai area attached and exclusively serving a unit shall be a limited common element appurtenant to that unit. Maintenance, repair and replacement shall be the responsibility of the unit owner to the extent specified in Section 12 of this Declaration.

D. Others. Any part of the common elements connected to or exclusively serving a single unit, and is specifically required in Section 12 of this Declaration to be maintained, repaired or replaced by or at the expense of the unit owner, shall be deemed a limited common element appurtenant to that unit, whether specifically described above or not. This paragraph includes windows, window screens, screens and doors, including all hardware and framings thereof.

9.2 Exclusive Use; Transfer of Use Rights. The exclusive use of a limited common element is appurtenant to the unit or units to which it is designated or assigned. The right to such use passes with the unit, whether or not separately described, and cannot be separated from it; except that the use rights to a particular parking space may be exchanged between units in the case of a proven handicap or other physical disability and then only in accordance with the following procedure:

A. The unit owners desiring to exchange such use rights because of handicap or other physical disability shall submit a written request to the Board, and proof relating to handicap or other physical disability, who shall then execute a Certificate of Transfer which shall include the recording data identifying this Declaration and be executed in the form required for the execution of a deed.

B. The transfer of rights shall be complete and effective when the certificate is recorded in the Public Records of Charlotte County, Florida. The cost of the recording shall be borne by the unit owner desiring the exchange or transfer.

10. ASSOCIATION: The Association shall operate the condominium, which shall perform its function pursuant to the following:

10.1 Delegation of Management. The Association may contract for the management and maintenance of the Condominium property and authorize a management agent or resident manager to assist the Association in carrying out its powers and duties by performing such functions as a submission of proposals, collection of assessments, keeping of records, enforcement of rules and maintenance, repair and replacement of the common elements with funds made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties provided in the Condominium Act.

10.2 Membership. The membership of the Association shall be comprised of owners of the units, as further provided in the Bylaws.

10.3 Acts of the Association. Unless the approval or affirmative vote of the unit owners is specifically made necessary by some provision of the Condominium Act or the Condominium documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board, without a vote of the unit owners. The officers and Directors of the Association have a fiduciary relationship to the unit owners. A unit owner does not have the authority to act for the Association by reason of being a unit owner.

10.4 Powers and Duties. The powers and duties of the Association include those set forth in the Condominium Act and the Condominium documents. The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers and duties. For those purposes, the powers of the Association include, but are not limited to, the maintenance, management, and the operation of the Condominium property and Association property. The Association has the power to enter into agreements to acquire leaseholds, memberships and other possessory or use interests in lands or facilities contiguous to the lands of the Condominium, for the use and enjoyment of the unit owners upon approval by not less than two-thirds of the voting interests of the members of the Association represented in person or by proxy at a duly noticed membership meeting.

10.5 Official Records. The Association shall maintain its Official Records as required by law. The records shall be open to inspection by members or their authorized representatives during office hours. This right to inspect the records includes a right to make or obtain photocopies at the reasonable expense of the member seeking copies.

10.6 Purchase of Units. The Association has the power to purchase units in the Condominium and to acquire and hold, lease, mortgage, and convey them, subject to the approval of a majority of the Board.

10.7 Roster. The Association shall maintain a current roster of names and mailing addresses of unit owners. A copy of the roster shall be made available to any member upon request.

10.8 Limitation on Liability. Notwithstanding its duty to maintain and repair Condominium or Association property, the Association shall not be liable to unit owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or unit owners or other persons. The Association shall only be liable for injury or damage if the negligence of the Association was the proximate cause of the injury or damage, the intent of this provision is to impose an obligation upon the Association consistent with the law comparable to the obligation imposed on the Unit Owners under Section 12.6 of this Declaration.

11. ASSESSMENTS AND LIENS: The Association has the power to levy and collect assessments against each unit and unit owner in order to provide the necessary funds for proper operation and management of the condominium and for the operation of the Association. The power of the Association to levy and collect assessments includes regular assessments for each unit's share of the common expenses as set forth in the annual budget and special assessments for unusual, non-recurring or unbudgeted common expenses. The Association may also levy special charges against any individual unit for any amounts, other than for common expenses, which are properly chargeable against such unit under this Declaration or the Association's Bylaws. Assessments shall be levied and payment enforced as provided in Section 6 of the Bylaws and as follows:

11.1 Common Expenses. Common expenses include all expenses of the operation, maintenance, repair or replacement of the common elements and Association property, the expenses of operating the Association and any other expenses properly incurred by the Association for the Condominium, including any amounts budgeted for the purpose of funding reserve accounts. The cost of water and sewer service to the units shall be a common expense.

11.2 Share of Common Expenses. The owner of each unit shall be liable for a share of the common expenses equal to his share of ownership of the common elements and the common surplus, as set forth in Section 6.1 of the Declaration.

11.3 Ownership. Assessments collected by or on behalf of the Association become the property of the Association; no unit owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his unit. No owner has the right to withdraw or receive distribution of his share of the common surplus, except as otherwise provided herein.

11.4 Who is Liable for Assessments. The owner of each unit, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while he is the owner. Multiple owners are jointly and severally liable. Except as provided in Section 11.11 below, whenever title to a condominium parcel is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid assessments against the transferor, without prejudice to any right the transferee may have to recover from the transferor any amount paid by the transferee.

11.5 No Waiver or Excuse from Payment. The liability for assessments may not be avoided or abated by waiver of the use or enjoyment of any common elements, by abandonment of the unit for which the assessments are made, or by interruption in the availability of the unit or the common elements for any reason whatsoever. No unit owner may be excused from payment of his share of the common expenses unless all unit owners are likewise proportionately excused from payment, except as provided below as to first mortgages.

11.6 Application of Payments; Failure to Pay; Interest; Administrative Late Fee; Association. Assessments and installments thereon paid on or before ten (10) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the highest rate allowed by law, until paid. Assessments and installments thereon shall become due, and the unit owner shall become liable for said assessments or installments, on the date set by the Board for payment. All payments on account shall be first applied as to interest, then to administrative late fees, then to costs and attorney's fees, and then to the delinquent regular or special assessment. Such application shall apply notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment. No payment by check is deemed received until the check has cleared. The Board may accelerate all assessments for the remainder of the budget year if the owner fails to pay all past-due assessments within ten (10) days of receipt of notification from the Association of its intention to so accelerate. An administrative late fee shall be charged, in addition to such interest, on any assessment not paid within ten (10) days of its due date in an amount set by the Board, not to exceed the maximum allowed by law.

11.7 Liens. The Association has a lien on each condominium parcel securing payment of past due assessments, including interest, and late fees, and reasonable attorney's fees and costs incurred by the Association incident to the collection of the assessment or enforcement of the lien, whether before,



during or after a lien foreclosure suit. The Association shall provide not less than 30 days written notice, via certified mail or equivalent, prior to filing of a lien for unpaid assessments. The lien is perfected upon recording a Claim of Lien in the Public Records of Charlotte County, Florida, stating the description of the condominium parcel, the name of the record owner, the assessments past due and the due dates. The lien is in effect until barred by law. The Claim of Lien secures all unpaid assessments and charges coming due prior to a final judgment of foreclosure. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

11.8 Priority of Lien. The Association's lien for unpaid assessments shall be subordinate and inferior to any recorded first mortgage unless the Association's Claim of Lien was recorded prior to the mortgage, but shall be superior to, and take priority over, any other mortgage regardless of when the mortgage was recorded. Any lease of a unit shall be subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed.

11.9 Foreclosure of Lien. The Association may bring an action in its name to foreclose its lien for unpaid assessments in the manner provided in the Condominium Act and may also bring an action to recover a money judgment for the unpaid assessments without waiving any lien rights. The Association is entitled to recover its reasonable attorney's fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid assessments.

11.10 Transfer of Ownership of Foreclosed Unit. If a foreclosure action is brought against the owner of a condominium parcel and the interest of the owner in the condominium parcel is sold, the owner's membership shall be cancelled and membership shall be issued to the purchaser at the foreclosure sale.

11.11 Mortgage Foreclosure. The owner and holder of a first mortgage of record which acquires title to a unit as a result of foreclosure of the mortgage, or by a deed given in lieu of foreclosure, shall be liable for assessments levied against such unit in the same manner as any other Unit Owner unless the mortgagee is entitled to limited liability for delinquent assessments as provided in the Condominium Act, as amended from time to time. The foregoing sentence pertaining to entitlement to limited liability shall not be construed to negate the authority of a court to order a mortgagee to pay a surcharge pursuant to 11 USC Section 506(c), or grant other relief that may be found to be applicable under federal or state law. Any unpaid share of common expenses which such acquirer is exempt from liability becomes a common expense collectible from all unit owners, including such acquirer and his successors and assigns. No owner or acquirer of title to a condominium parcel by foreclosure (or by a deed in lieu of foreclosure) may during the period of his ownership of such parcel, whether or not the parcel is occupied, be excused from the payment of any assessments coming due during the period of such ownership.

11.12 Certificate As To Assessments. Within fifteen (15) days after request by a unit owner or unit mortgagee, the Association shall provide a certificate stating whether all assessments and other monies owed to the Association by the unit owner with respect to the condominium parcel have been paid. Any person other than the owner who relies upon such certificate shall be protected thereby. The Association may charge a reasonable fee for the preparation of the certificate, which fee must be stated in the certificate. The authority for the fee must be established in written resolution adopted by Board or in a written management contract.

11.13 Assignment of Claim by Association. The Association may assign its lien rights for recovery of unpaid assessments to another unit owner, a group of unit owners or a third party, with or without prior notice to the delinquent owner. If such assignment is made without actual notice to the delinquent owner and he pays the indebtedness to the Association, he shall be relieved of further liability to the extent of payment.

11.14 Other Collection Remedies. To the extent provided in the Condominium Act, the Association shall have the authority to pursue other collection remedies, including but not limited to the suspension of the use of portions of the Condominium Property, the suspension of voting rights, and

recovery of assessments and other unpaid financial obligations from any tenant in a Unit owned by a delinquent Unit Owner.

12. MAINTENANCE; LIMITATION UPON ALTERATION AND IMPROVEMENT: Responsibility for the maintenance, repair and replacement of the Condominium property and restrictions on its alteration and improvements shall be as follows:

12.1 Association Maintenance. The maintenance, repair and replacement of all common elements and Association property (other than limited common elements required elsewhere herein to be maintained by the unit owner) shall be performed by the Association, and the cost is a common expense. The Association's responsibility includes, without limitation, all electrical conduit, the main electrical circuit breaker serving each unit and access door thereto, rough plumbing, and other installations, located within a unit but serving another unit or located outside the unit, for the furnishing of utilities to one or more units or the common elements, but does not include interior wall switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within the unit. The Association shall also paint the exterior unit entry doors, and maintain, paint and caulk all framings, casings and exterior hardware. All incidental damage caused to a unit or limited common elements by work done or ordered by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the property as nearly as practical to its condition before the damage.

12.2 Unit Owner Maintenance. Each unit owner is responsible, at his own expense, for all maintenance, repairs, and replacements of his own unit, whether ordinary or extraordinary, including, without limitation, maintenance, repair and replacement of screens in windows, windows and window glass, the interior side of the entrance door and all other doors within or affording access to the unit, the electrical, mechanical and plumbing fixtures and outlets (including connections), appliances, all portions of the heating and air conditioning equipment, carpeting and other floor covering, appliances, other facilities or fixtures located or contained entirely within his own unit or which serves only his own unit, and all other interior, non-structural partition walls which do not form part of the boundary of the unit. The unit owner shall also have the following responsibilities:

A. Where a limited common element consists of a lanai, balcony, porch, patio or roof area, the unit owner who has the right to the exclusive use of said lanai, balcony, porch, patio or roof area shall be responsible for the maintenance, care and preservation of the paint and surface of all the interior parapet walls surfaces (except the exterior walls forming the boundaries of the lanai, balcony, porch, patio or roof area as originally constructed by the developer, which walls shall be maintained, repaired and replaced by the Association unless the area has been enclosed in which case the unit owner has the responsibility to paint the enclosed walls), including floor and ceiling within said area, if any, and any fixed and/or sliding glass door in portions of the entrance way of said area, if any, and the wiring, electrical outlet(s) and fixture(s) thereon, if any, and the replacement of light bulbs

B. Each unit owner is responsible for all decorating within his own unit. In order to eliminate any unreasonable degree of noise caused by walking on the floors of a unit, the unit owner shall install all necessary carpeting or rugs to eliminate such noise.

C. The covering and appearance of windows and doors, whether by draperies, shades or other items visible from the exterior of the unit, shall be subject to the Rules and Regulations of the Association.

D. Common hallways, stairways and other common areas shall not be obstructed, littered, defaced or misused in any manner. No signs are permitted unless first approved in writing by the Board of Directors. Porches, walkways and stairways shall be used only for the purpose intended, and they shall not be used for hanging garments or other objects, for cleaning of rugs or other household items, for storage of bicycles or other implements.

E. To maintain, repair and replace any additions, alterations or improvements which the unit owner may make to his unit or the common elements appurtenant thereto provided however that nothing

herein shall be construed to allow a unit owner to alter, add or improve without obtaining the prior written consent of the Board as elsewhere required.

12.3 Alteration to Units and Limited common Elements by Unit Owners. No owner shall make or permit the making of any structural modifications or alterations to his unit or its appurtenant limited common elements without first obtaining the written consent of the Association, which consent shall be denied if a majority of the Board of Directors determines that the proposed modifications or alterations might adversely affect, or in any manner be detrimental to, the Condominium in part or whole. If any unit owner requests approval of an alteration or modification involving the removal of any permanent interior partition, the Association may permit such removal if the partition to be removed is not a load-bearing partition and so long as the removal thereof would not materially affect or interfere with the utility services, constitution common elements, if any, located therein. No owner shall cause any of the limited common elements appurtenant to his unit to be enclosed or cause any changes to be made to the exterior of any unit or building including painting or other decoration, solar screening on windows, or the installation of electrical wiring, television antennas, appliances or air conditioning units which may protrude through the walls of the Condominium, or in any manner change the exterior appearance of any portion of the Condominium, without the prior written consent of the Board. Any glass, screen, curtain, blind, shutter, awning or screen door which may be installed is subject to regulation by the Board and prior written consent must be obtained from the Board.

A. Prior approval for modification of the interior or exterior of the condominium property must be obtained from the Board. Notwithstanding anything in the Declaration to the contrary, a unit owner must be given permission to attach a religious object not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep, to the mantle or frame of the door of unit of the unit owner.

B. Specifications have been adopted for:

1. Hurricane protection
2. Screen doors
3. Lanai enclosures
4. Storage units

12.4 Alterations and Additions to Common Elements. There shall be no alteration or further improvement of common elements or the real property owned by the Association, without prior approval of not less than two-thirds of the voting interests of the members of the Association represented in person or by proxy at a duly noticed membership meeting, except that membership approval is not required for (1) work necessary to protect, maintain, repair, or replace the common elements or Association Property, even if the work would otherwise constitute a material alteration or substantial addition to the common elements; (2) the installation and use of energy efficient devices in common elements or Association Property for the benefit of all unit owners; or (3) for alterations or improvements in the common elements, or Association Property, where the expense to the Association is equal to or less than \$50,000.00, or less than 7.5% of the annual budget, including reserves, whichever is higher, in the aggregate for all projects in any calendar year.

12.5 Enforcement of Maintenance. If after reasonable notice the owner of a unit fails to maintain the unit or its appurtenant limited common elements as required above, the Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other lawful actions to remedy such violation, including but not limited to, entering the unit, with or without consent of the tenant or unit owner. The Association may repair, replace, or maintain any item which constitutes a hazard to other condominium property or residents, or which has a material adverse effect on the appearance of the Condominium. Any expenses so incurred by the Association shall be charged to the unit owner, together with reasonable attorney's fees and other expenses of collection, if any.

12.6 Negligence; Damage Caused by Condition in Unit. Each unit owner shall be liable to the Association for the expenses of any maintenance, repair or replacement made necessary by his carelessness or negligence, or by that of any member of his family or his guests, employees, agents, or lessees. If any condition, defect or malfunction existing within a unit shall cause damage to the common

elements or to other units, the owner of the offending unit shall be liable to the person or entity responsible for repairing the damaged areas for all costs of repair or replacement not paid by insurance but only if the damage was caused by the carelessness or negligence of the unit owner or by that of any member of his family or his guests, employees, agents or lessees. If one or more of the units involved is not occupied at the time the damage is discovered, the Association may enter the unit without prior notice to the owner and take reasonable actions to mitigate or prevent the spread of the damage. The Association may, but is not obligated to, also repair the damage, with the prior consent of the owner.

#### 12.7 Association's Right of Access to Units.

A. The Association has the irrevocable right of access to each unit during reasonable hours, when necessary for the maintenance, repair or replacement of any common elements or for any portion of a unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the common elements or to a unit or units.

B. The Association's right of access included without limitation entry for purposes of pest control and preventative maintenance of safety equipment such as smoke alarms as well as the right, but not the duty to enter under circumstances where the health or safety of residents may be endangered.

C. The Association shall retain a master key to all units. No unit owner, tenant or realtor shall alter any lock, nor install a new lock, unless the prior written consent of the Board is obtained. The unit owner shall pay all costs incurred by the Association in gaining entrance to the unit, as well as all damage to his unit caused by gaining entrance thereto, and all damage resulting from delay in gaining entrance to his unit caused by the non-availability of a key.

The exercise of the Association's access rights shall be accomplished with due respect for the unit owner's rights to privacy and freedom from unreasonable annoyance, as well as with appropriate precautions to protect the owner's property.

12.8 Mold Prevention. In an effort to prevent the accumulation of excess moisture, mold, water leaks, and resulting damage, unit owner responsibilities include the following:

A. The responsibility to immediately report any water accumulation, leak or intrusion, from any source whatsoever, to the Association, and if the water accumulation or leak is from within the unit, to immediately terminate the water flow to the unit by closing the unit water shut-off valve.

B. To operate the HVAC system in accordance with any rules enacted by the Board.

C. Replace the hot water heater before the expiration of its useful life.

D. An existing and/or new washer or dryer may be replaced by the unit owner without Board consent provided the installation is in accordance with requirements imposed by Board rule.

12.9 Elective Maintenance. Notwithstanding anything in the Declaration to the contrary, the Association, by action of its Board, may assume some of the maintenance responsibilities of the unit owners for portions of the units or limited common elements provided the Board adopts a resolution setting forth the basis on which the Board has determined that the best interests of the community will be served by the Association assuming the maintenance rather than the unit owner. The resolution shall be included as part of the Association records and all expenses incurred by the Association in performing these assumed maintenance duties shall not be common expenses but shall be billed to the owner(s) of the affected Units based on the cost incurred by the Association for the work on each unit and its limited common elements, which shall be collectible by the Association in the same manner as provided in this Declaration for the collection of assessments. Any resolution adopted in accordance with this paragraph may be subsequently changed, rescinded or modified by action of the Board.

13. USE RESTRICTIONS: The use of the units shall be in accordance with the following provisions as long as the Condominium exists:

13.1 Units. Each unit shall be occupied by a single family, its servants and guests, as a residence and for no other purpose. The restrictions of this subsection shall not, however, be deemed to prohibit an owner from maintaining a personal or professional library, from keeping personal, business, or professional records in his or her home, or from handling personal, business, or professional telephone calls, corresponding, both written and by electronic transmission, or conducting internet or other telecommunication activities associated with such owner's business or profession. Such uses are expressly declared customarily incident to residential use. This subsection does, however, prohibit such commercial or business activity within a unit which would disrupt the residential ambiance of the Condominium, or have associated with it such conduct and activity normally associated with a business or professional use. Such prohibited conduct and activity includes, but is not necessarily limited to, regular or frequent traffic to and from the unit by persons making deliveries or pickups, by employees, other business associates, customers, or clients. This provision is intended to permit the conduct of such business and professional activities from a home office as are not uncommon in residential areas, and are consistent with primary single family residential use, which use does not have a material effect upon the number or frequency of visitors to the unit, create substantially more demand for parking, increase the traffic within the Condominium, or result in a material change in the use of the unit. An owner or tenant desiring to use a unit for incidental permitted business or professional use shall notify the Association by completing a form with required information.

13.2 Occupancy. If the unit has not been leased, the owner may have guests in his unit, subject to the following provisions which apply whether the owner is present with his guests or absent:

A. Any one person related to a unit owner within the first degree by blood, adoption or marriage, and that person's spouse and members of that person's family within the first degree by blood or adoption, are permitted to occupy the unit owner's apartment for a period not to exceed sixty (60) calendar days in total in any one calendar year.

B House guests not included within 13.2 (A) may stay no more than two (2) weeks and the number of occasions for this type of guest occupancy shall be limited to two (2) in any calendar year.

C. A two-bedroom unit shall have no more than four (4) permanent occupants at any time. A one-bedroom shall have no more than two (2) permanent occupants at any time. These limitations on occupancy do not apply to temporary guests permitted under 13.2(A) and (B).

D. All guests must register at the Association office located at the Condominium upon arrival, and failure to register shall be prima facie evidence that the occupancy of such unregistered guest(s) is improper and prohibited under this Declaration.

13.3 Exceptions. Upon prior written application of the unit owner the Board of ~~Directors~~ may make such limited exceptions to the foregoing restrictions as may be deemed appropriate in the discretion of the Board for the sole purpose of avoiding undue hardship or inequity. The making of one exception shall not be construed as a precedent for later exceptions.

13.4 Pets. No animals, reptiles, birds, livestock or poultry of any kind shall be raised, bred, or kept within the Condominium, other than an assistance or service animal prescribed by a physician or other qualified individual under Fair Housing laws for the benefit of a disabled resident. Proper restraint and control must be used on keeping pets. They must be either leashed or carried under the arm. All excrement must be removed promptly whenever the animal is on the common elements. Pets shall not be kept in any lanai area when the occupant is not in the unit.

13.5 Nuisances. No nuisances shall be allowed to exist upon the condominium property, nor shall any use or practice be allowed if it becomes a reasonable source of annoyance to residents, or interferes with the peaceful possession and proper use of the property by residents. Parents must control their children and be accountable for their actions. All parts of the condominium property shall be kept in a

clean and sanitary condition, and no rubbish, refuse, or garbage shall be allowed to accumulate, nor shall any fire or safety hazard be allowed to exist.

13.6 Age Restrictions. In accordance with the Federal Fair Housing Amendments Act of 1988, and the Housing for Older Persons Act of 1995, and comparable legislation adopted by the State of Florida, at least one person fifty-five (55) years of age or older must be a permanent occupant of each unit while any other person occupies said unit. Persons under the age of fifty-five (55) and over the age of sixteen (16) may occupy and reside in a unit as long as one of the occupants is age fifty-five (55) or older. Persons under the age of sixteen (16) shall not occupy a unit on a permanent basis but may occupy a unit on a temporary basis, not to exceed thirty (30) days in any calendar year.

Hardship exceptions to this provision shall be granted under the following circumstances, provided that such exceptions shall not be permitted in situations where the granting of a hardship exception will result in having less than eighty (80%) percent (or the minimum as may be established by law from time to time) of the units in the condominium having less than one occupant fifty-five (55) years of age or older;

A. In cases of death of an occupant where the remaining occupant is not fifty-five (55) years of age or older;

B. In cases where a unit owner dies and title to the unit passes by inheritance, the person(s) taking title to the unit may occupy the unit or use it in accordance with the Association's policies regarding ownership, as such policies may be amended from time to time;

C. In cases of divorce, dissolution, or other separation, where the occupant(s) will take title as a result of a division of property, either by settlement or court order;

D. Any other hardship circumstances as determined by the Board of ~~Directors~~ in its sole discretion.

It is the intent of this provision that the community comply with Fair Housing Laws, as the same may be amended from time to time, which currently requires that at least eighty (80%) percent of the occupied units shall at all times have at least one occupant fifty-five (55) years of age or older. The Board shall establish policies and procedures for the purpose of ensuring that the foregoing required percentages of occupancy by older persons are maintained at all times and to otherwise allow the Association to qualify for legal exemption from the laws. The Board or its designee shall have the sole and absolute authority to deny occupancy of a unit by any persons(s) who would thereby create a violation of the aforementioned percentages of adult occupancy. This restriction on occupancy by persons less than fifty-five (55) years of age shall not apply to persons permanently occupying a unit as of the date of adoption of this Amendment. All residents must provide proof of age sufficient to meet Federal and State Fair Housing requirements upon request from the Board of Directors.

14. TRANSFER OF OWNERSHIP OF UNITS: In order to maintain a community of congenial, financially responsible residents with the objectives of protecting the value of the units, inhibiting transiency, and facilitating the development of a stable, quiet community and peace of mind for all residents, the transfer of ownership of a unit by an owner shall be subject to the following provisions so long as the Condominium exists which provisions each owner of a unit covenants to observe:

14.1 Forms of Ownership:

A. A unit may be owned by one natural person who has qualified and been approved as elsewhere provided herein.

B. Co-Ownership. Co-Ownership of units may be permitted. If the co-owners are other than husband and wife or two domestic partners, the Board shall condition its approval upon the designation of one approved natural person as "primary occupant". The use of the unit by other persons shall be as if

the primary occupant was the only actual owner. Any change in the primary occupant shall be treated as a transfer of ownership subject to all the provisions of this Section 14. No more than one such change will be permitted in any twelve (12) month period.

C. Ownership by Corporations, Partnerships or Trusts. A unit may be owned in trust, or by a corporation, partnership or other entity which is not a natural person, if approved in the manner provided elsewhere herein. The intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the unit may be used as short-term transient accommodations for several individuals or families. The approval of a trustee, or corporation or other entity as a unit owner shall be conditioned upon designation by the owner of one natural person to be the "primary occupant". The use of the unit by other persons shall be as if the primary occupant was the only actual owner. Any change in the primary occupant shall be treated as a transfer of ownership subject to all the provisions of this Section 14. No more than one such change will be approved in any twelve-month period.

D. Life Estate. A unit may be subject to a life estate, either by operation of law or by a voluntary conveyance approved under 14.2 below. In that event, the life tenant shall be the only member from such unit, and occupancy of the unit shall be as if the life tenant was the only owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy right unless separately approved by the Association. The life tenant shall be liable for all assessments and charges against the unit. Any consent or approval may be given by the life tenant alone, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy right.

#### 14.2 Transfers.

A. Sale or Gift. No unit owner may dispose of a unit or any interest therein by sale or gift (including agreement for deed) without prior written approval of the Board, however, an owner may transfer or lease a unit to (1) another unit owner; (2) to a spouse or domestic partner of the unit owner; (3) to lineal descendants of the unit owner or spouse or domestic partner; (4), to a non-natural entity if wholly owned by the unit owner, the unit owner' spouse or domestic partner, or Immediate Family (parents, children, grandchildren, and siblings) of the unit owner or spouse or domestic partner and in compliance with Section 14.1(C) of this Declaration; (5) or to a trustee if the unit owner, the unit owner' spouse or domestic partner , or Immediate Family (parents, children, grandchildren, and siblings) of the unit owner or spouse or domestic partner; are the sole beneficiaries without prior approval of the Board.

B. Devise or Inheritance. If any unit owner acquires his title by devise or inheritance, his right to occupy or use the unit shall be subject to the approval of the Board. The approval shall not be denied to any devisee or heir who was the prior owner's lawful spouse at the time of death, or was related to the owner by blood or adoption within the first degree.

C. Other Transfers. If any person acquires title in any manner not considered in the foregoing subsections, that person shall have no right to occupy or use the unit without the approval of the Board under the procedures outlined in Section 14.3 below.

D. To facilitate transfers proposed during times when many of the members are not in residence, the Board may by resolution delegate its approval powers to an ad hoc committee, which shall consist of at least three (3) members. The Chairman of the committee shall be deemed a Vice-President, as such shall be empowered to execute Certificates of Approval on behalf of the Association.

#### 14.3 Procedures.

##### A. Notice to Association

1) Sale or Gift. An owner intending to make a sale or gift of his unit or any interest therein shall give to the Board or its designee written notice of such intention at least thirty (30) days prior to the date of the proposed transfer, together with the name and address of the proposed purchaser or

donee and such other information as the Board may reasonably require. The Board may require the personal appearance of any purchaser or donee and his spouse, if any, as a condition for approval. The interview may be conducted over the telephone if it would be inconvenient for the applicant to appear for a personal interview.

2) ~~Devise, Inheritance or Other Transfers.~~ The transferee must notify the Board ~~of Directors~~ of his ownership and submit a certified copy of the instrument evidencing his ownership and such other information as the Board may reasonably require. The transferee shall have no occupancy right unless approved by the Board, but may sell or lease the unit following the procedures in this Section and in Section 15.

3) Failure to Give Notice. If no notice is given, the Board at its election may approve or disapprove the transfer without prior notice. If it disapproves, the Association shall proceed as if it received notice on the date of such disapproval; however, the proposed transferee may provide the Board with the required notice and request reconsideration.

B. Within twenty (20) days of receipt of the required notice and all information or appearances requested, or not later than sixty (60) days after the notice required by paragraph (A) above is received, whichever occurs first, the Board shall approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a Certificate of Approval executed by the President or Vice-President of the Association in recordable form and delivered to the transferee. If the Board neither approves or disapproves within thirty (30) days, such failure to act shall be deemed the equivalent of approval and on demand the Board shall issue a Certificate of approval to the transferee.

C. Disapproval.

1) Approval of the Association shall be withheld only if a majority of the whole Board so votes, after receiving a written opinion of counsel that such disapproval is for good cause. Only the following may be deemed to constitute good cause for disapproval:

a) The person seeking approval (which shall include all proposed occupants) has been designated by a court as a sexual predator or sexual offender, or been convicted of a felony involving violence to persons or property;

b) The person seeking approval (which shall include all proposed occupants) has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures or bad debts;

c) The application for approval on its face indicated that the person seeking approval (which shall include all proposed occupants) intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the Condominium;

d) The person seeking approval (which shall include all proposed occupants) has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in other social organizations or associations, or by his conduct in this Condominium as a tenant, unit owner or occupant of a unit; or

e) The transfer to the person seeking approval would result in that person, either singly, jointly or as a principal in a non-natural entity, owning more than two (2) units in the Condominium

f) The person seeking approval (which shall include all proposed occupants) failed to provide the information and appearances required to process the application in a timely manner.

(g) All assessments, fines and other charges against the unit or the unit owner have not been paid in full, provided however, the Association may grant approval subject to payment in full as a condition of the approval.



14.4 Exception. The provisions of Section 14.2 and 14.3 are not applicable to the acquisition of title by an institutional mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure, but shall apply to the acquisition of title by any other mortgagee.

14.5 Unapproved Transfers. Any sale or transfer which is not approved pursuant to the terms of this Declaration shall be void unless subsequently approved in writing by the Board.

14.7 Fees for Processing Applications for Approval to Purchase or Lease. Whenever herein the Board's approval is required to allow the sale, lease, or other transfer of an interest in a unit, the Association may charge the owner a preset fee for processing the approval, such fee not to exceed the amount allowed by law. No fee may be charged for approval of the renewal or extension of a lease with the same lessee.

14.8 Right of First Refusal, Duty to Provide Alternate Purchaser. The Association shall have no duty to provide an alternate purchaser, and the Association's right of first refusal shall be optional, in the event the transfer is rejected for cause based on one or more of the grounds for disapproval set forth above, if the Association disapproves a prospective purchaser without cause, the Association shall have the obligation to purchase the unit on the same terms and conditions as the offer from the disapproved purchaser or provide an alternate purchaser who shall purchase the unit on the same terms and conditions as the offer from the disapproved purchaser. The closing between the selling unit owner and the Association, or the alternate purchaser, shall take place within sixty days after written notice of disapproval, or at such later date as the parties may agree.

15. LEASING OF UNITS: All leases of units must be in writing and on the approved Association lease form. A unit owner may lease only his entire unit, and then only in accordance with this Section after receiving the approval of the Association.

15.1 Procedures.

A. Notice. An owner intending to lease his unit shall give to the Board or its designee written notice of such intention at least twenty (20) days prior to the proposed transaction, together with the name and address of the proposed lessee and all other occupants (including the lessee's spouse, a copy of the proposed lease, and such other information as the Board may reasonably require. The Board may require the personal appearance of any lessee and his spouse, if any, as a condition of approval. The interview may be conducted over the telephone if it would be inconvenient for the applicant to appear for a personal interview.

B. Approval. After the required notice and all information or appearances requested have been provided, the Board shall approve or disapprove the proposed lease within twenty (20) days. If the Board neither approves nor disapproves within the time stated above, such failure to act shall be deemed the equivalent of approval, and on demand the Board shall issue a written letter of approval to the lessee.

C. Disapproval. A proposed lease shall be disapproved only if a majority of the whole Board so votes, and in such case the lease shall not be made. The Association shall neither have a duty to provide an alternate tenant nor shall it assume any responsibility for the denial of a lease application if a denial is based upon any of the following factors:

1) The unit owner is delinquent in the payment of assessments at the time the application is considered;

2) The unit owner has a history of leasing his unit to troublesome lessees and/or refusing to control and accept responsibility for the occupancy of his unit;

3) The real estate company handling the leasing transaction on behalf of the unit owner has a history of not adequately screening lessee applicants and recommending undesirable lessees;

4) The application on its face appears to indicate that the person seeking approval (which shall include all proposed occupants) intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the Condominium

5) The person seeking approval (which shall include all proposed occupants) has been designated by a court as a sexual predator or sexual offender, or been convicted of a felony involving violence to persons or property;

6) The person seeking approval (which shall include all proposed occupants) has a history of conduct which evidences disregard for the rights and property of others;

7) In the case of a renewal, the lessee has during previous occupancy evidenced an attitude of disregard for the provisions in the Condominium documents and applicable Rules; or

8) The person seeking approval (which shall include all proposed occupants) gives false information or incomplete information to the Association as part of the application procedure.

D. Failure to Give Notice. If proper notice is not given, the Board at its election may approve or disapprove the lease without prior notice. If it disapproves, the Board shall proceed as if it received notice on the date of such disapproval; however, the proposed lease may provide the Board with the required notice and request reconsideration. Any lease entered into without approval or in violation of the above provisions shall, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the lessee with five (5) days' notice, without securing consent to such eviction from the unit owner.

E. Applications, Lease Terms and Assessments. Applications for authority to lease shall be made to the Board on such forms and include such terms as the Board may, from time to time, provide. The legal responsibility for paying condominium assessments may not be delegated to the lessee. Each lease, or addendums attached thereto, shall contain an agreement of the tenant to comply with this Declaration and all other documents governing or affecting the condominium; shall contain a provision appointing the Association as agent for the owner so the Association may act on behalf of the owner to enforce the lease, evict the tenant, or otherwise; and shall contain a provision authorizing the tenant to pay rental directly to the Association upon receipt of written notification from the Association that the owner is delinquent in paying assessments; and if the lease does not so provide it shall be deemed to include such provisions. The owner shall not be relieved of any liability or responsibility hereunder by virtue of the existence of said lease or any of the foregoing provisions.

15.2 Term of Lease and Frequency of Leasing. No unit may be leased more than six (6) times in any calendar year, with the minimum lease term being thirty (30) days. No lease may be for a period of more than one (1) year, and no option for the lessee to extend or renew the lease period for any additional periods shall be permitted. However, the Board may, at its discretion, approve the same lease from year to year. No subleasing or assignment of lease rights by the lessee is allowed. Only those persons named in the Application for Approval may occupy a unit. Guests of lessees are subject to the same restrictions as unit owners as provided in Section 13.2 of this Declaration.

15.3 Exceptions. Upon written request of a unit owner, the Board may approve one additional lease of the unit within the same calendar year, but only under unusual circumstances and to avoid undue hardship and inequity.

15.4 Occupancy During Lease Term. No one but the lessee, his family within the first degree of relationship by blood, adoption or marriage, and their guests may occupy the unit. The total number of

overnight occupants of a leased unit is limited to two (2) persons per bedroom and for a maximum period of seven (7) days.

15.5 Security Deposit. The Association may request an owner or tenant to deposit with it a sum of money equal to the first month's rent of the lease agreement, or some lesser amount as established by the Board, prior to commencement of the lease term. Failure to provide such security deposit upon demand may result in disapproval of the lease by the Board. A claim may be imposed on the security deposit at the end of the lease term for any damage to the Association or Condominium property or for the payment of any fines or penalties levied against the tenant for violation of the Condominium Documents and/or Rules and Regulations. The Association shall follow the provisions of Florida law, as amended from time to time, if a claim is imposed.

15.6 Use of Common Elements and Association Property. 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. Nothing in this subsection shall interfere with the access rights of the unit owner as a landlord pursuant to Chapter 83, Florida Statutes.

15.7 Regulation by Association. All of the provisions of the Condominium documents and the Rules and Regulations of the Association shall be applicable and enforceable against any person occupying a unit as a lessee or guest to the same extent as against an owner, and a covenant on the part of each occupant to abide by the Rules and Regulations of the Association and the provisions of the Condominium documents, designating the Association as the owner's agent, with the authority to terminate any lease agreement and evict the tenants, in the event of violations by the tenants of such covenant, shall be deemed to be included in every lease agreement, whether oral or written, and whether specifically expressed in such agreement or not.

16. INSURANCE: Insurance covering portions of the Condominium property shall be governed by the following provisions:

16.1 Purchase, Custody and Payment.

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

B. Named Insured. The named insured shall be the Association individually, and as agent for owners of units covered by the policy, without naming them, and as agents for their mortgagees, without naming them. The unit owners and their mortgagees shall be additional insureds.

C. Custody of Policies and Payment of Proceeds. All policies shall provide that payments for losses made by the insurer shall be paid to the Association.

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

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

A. Casualty. The buildings shall be insured in an amount not less than one hundred percent (100%) of the full insurable replacement value thereof, excluding foundation and excavation costs. The Association must obtain an independent insurance appraisal on the Condominium Property, or an update of a prior appraisal, every thirty-six (36) months. The property insurance required under this provision must be based on the replacement cost of the property as determined by the appraisal. The word "building", or its equivalent, in any property insurance policy issued to insure the Condominium Property does not include the following items: (1) personal property located within the Unit; (2) ceiling, floor and wall coverings; (3)

electrical fixtures; (4) appliances; (5) water heater; (6) water filter; (7) built-in cabinets and countertops; and (8) window treatments including curtains, drapes, blinds, hardware and similar window treatment components. It is recommended that each Unit Owner obtain and maintain property insurance for the portions of the condominium property that are excluded from the insurance policy obtained and maintained by the Association, and liability insurance. Such coverage shall afford protection against:

1) Loss or Damage by Fire and Other Hazards. Loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and

2) Other Risks. Such other risks as from time to time are customarily covered with respect to building and improvements similar to the insured property in construction, location and use, including, but not limited to, vandalism and malicious mischief.

3) No Coverage. The Association insurance shall not cover: built-in cabinets or any owner-installed improvements, i.e. fans, screen doors, etc,

B. Liability. Comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the insured property or adjoining driveways and walkways, or any work, matters or things related to the insured property, with such coverage as shall be required by the Board, but with combined single limit liability of not less than \$1,000,000 for each accident or occurrence, including property damage, and with a cross liability endorsement to cover liabilities of the unit owners as a group to any unit owner, and vice versa.

C. Worker's Compensation. Worker's Compensation and other mandatory insurance, when applicable.

D. Flood Insurance. Flood insurance, if required by the institutional first mortgagees or if the Association so elects.

E. Other Insurance. Such other insurance as the Board shall determine from time to time to be desirable, including but not limited to errors and omissions insurance coverage.

F. Waiver of Rights. When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to:

1) Subrogation against the Association and against the unit owners individually and as a group:

2) The clause that reserves to the insurer the right to pay only a fraction of any loss in the event of co-insurance or if other insurance carriers have issued coverage upon the same risk; and

3) Avoid liability for a loss of the Association, its officers or by a member of the Board of Directors of the Association or by one or more unit owner.

16.3 Additional Provisions. All policies of physical damage insurance shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days' prior written notice to all of the named insured, including all mortgagees of units.

16.4 Deductible. The Board shall establish the amount of the deductible under the insurance policies, and other features, as they deem desirable and financially expedient, in the exercise of their business judgment. The establishment of the deductible amount shall be based on industry standards and prevailing practices of communities similar in size and construction, available funds, and assessment authority. The deductible shall be paid by the party responsible for obtaining and maintaining insurance on the item damaged. For example, damage to windows within a Unit caused by an event covered under the insurance policy obtained by the Association but not paid for by insurance proceeds because of the

application of a deductible provision under that policy shall be paid as a common expense of the Association notwithstanding that a unit owner may otherwise be responsible for the maintenance of the windows under this Declaration. Damages to items that must be insured by a unit owner that are not covered by insurance obtained by that unit owner shall be the responsibility of the unit owner. The provisions hereof pertaining to responsibility to insurance shall not be interpreted to modify the party responsible for maintenance, repair, and replacement. Unit owners shall remain responsible for maintenance and repairs to the portions of their unit as provided elsewhere in this Declaration notwithstanding that the Association insures an item.

16.5 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense. Premiums may be financed in such manner as the Board deems appropriate.

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

A. Insured Property. Proceeds on account of damage to the insured property shall be held in undivided shares for each unit owner, such shares being the same as the undivided shares in the common elements appurtenant to each unit.

B. Mortgagees. No mortgagee shall have the right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have the right to apply or have applied to the reduction of a mortgage debt any insurance proceeds, except for actual distributions thereof made to the unit owner and mortgagee pursuant to the provisions of this Declaration.

16.7 Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee (if appointed) shall be distributed to or for the benefit of the beneficial owners thereof in the following manner:

A. Expense of the Trust. All expenses of the Insurance Trustee (if appointed) shall be first paid or provisions shall be made therefor.

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

C. Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damaged property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be allocated among the beneficial owners as provided in Section 16.6 above, and distributed first to all institutional first mortgagees in an amount sufficient to pay off their mortgages, and the balance, if any, to the beneficial owners.

16.8 Association As Agent. The Association is hereby irrevocably appointed agent and attorney-in-fact for each unit owner and for each owner of a mortgage or other lien upon a unit and for each owner of any other interest in the Condominium property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims for

each unit owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the Condominium property.

16.9 Responsibility. After a casualty event, the Association shall be responsible for and undertake all repair work and reconstruction on portions of the Condominium Property insured by the Association against property loss, provided however, a Unit Owner may undertake repair and reconstruction on portions of the Unit insured by the Association but only if authorized to do so in writing by the Board. In the event the Board elects to authorize a Unit Owner to undertake work, the Association may condition the disbursement of insurance proceeds on approval of repair methods, the qualifications of the proposed contractor, the contract to be used, reasonable verification of appropriate steps to ensure that the work is done, and that the contractor is paid for the performance of said work, and other conditions. A Unit Owner shall be responsible for and shall undertake repair work and reconstruction of portions of the Unit insured by the Unit Owner.

16.10 Exceptions. Notwithstanding other provisions of this Section 16, as set forth in the Condominium Act, the Association has the right to require an owner to pay for reconstruction costs if the damage was caused by the intentional conduct, negligence, or failure of owner (or guests, family, tenants, or others acting for, by or under the owner) to comply with the Condominium documents, or if the casualty losses were known or should have been known to the owner and were not timely reported to the association.

16.11 Insurance Trustee. The Board of the Association shall have the option in its discretion of appointing an Insurance Trustee hereunder. If the Association fails or elects not to appoint such Trustee, the Board will perform directly all obligations imposed upon such Trustee by this Declaration.

#### 17. RECONSTRUCTION OR REPAIR AFTER FIRE OR OTHER CASUALTY:

17.1 Determination to Reconstruct or Repair. In the event of damage or destruction of the insured property as a result of fire or other casualty, the Board shall arrange for the prompt repair and restoration of the insured property and shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments except that if:

A. Seventy-five percent (75%) or more of the insured property is destroyed or substantially damaged; and

B. Unit owners owning eighty percent (80%) or more of the applicable interests in the common elements elect not to proceed with repairs or restoration; and

C. Those institutional first mortgagees which will not receive payment in full of amounts due under their mortgage as part of the termination shall approve such election by the unit owners, then the repair and restoration shall not take place. In such event, the Condominium shall be terminated as provided in Section 19 of this Declaration.

The Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary to determine whether or not the damage property is to be reconstructed or repaired.

17.2 Plans and Specifications. Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original improvements; or, if not, then in accordance with the plans and specifications approved by the Board.

17.3 Estimate of Costs. Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Board shall obtain reliable and detailed estimates of the cost to rebuild or repair.

17.4 Assessments. If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair to be effected by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, assessments shall be made against the unit owners in sufficient amounts to provide funds for the payment of such costs. Such assessments on account of damage to the insured property shall be in proportion to all of the owners' respective shares in the common elements, in proportion to the cost of repairing the damage suffered by each owner thereof, as determined by the Board.

17.5 Construction Funds. The funds for payment of the costs of reconstruction and repair, which shall consist of proceeds of insurance collected on account of a casualty, held by the Insurance Trustee (if appointed) and funds collected by the Association from assessments against unit owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of such costs in the following manner:

A. Association – Lesser Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is less than \$10,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Board.

B. Association – Major Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is more than \$10,000.00, then the construction fund shall be disbursed in payment of such costs in the manner contemplated by Section 17.5(A) above, but then only upon the further approval of an architect or engineer qualified to practice in the State of Florida and employed by the Association to supervise the work.

C. Unit Owners. If there is a balance of insurance proceeds after payment of all costs of reconstruction and repair that are the responsibility of the Association, this balance may be used by the Association to effect repairs to the common elements or limited common elements.

D. Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed to the Association; except, however, that part of a distribution to an owner which is not in excess of assessments paid by such owner into the construction fund shall not be made payable to any mortgagee.

17.6 Additional Board Authority. In addition to Board authority granted by law and the Condominium Documents, the Board shall have the following power and authority after a casualty:

A. To determine after a casualty whether the units can be safely occupied, which decision shall not be conclusive as to the determination of habitability.

B. To declare any portion of the Condominium property or Association Property unavailable for occupation by owners, tenants, or guests after a casualty, including during the rebuilding process. Such decision by the Board shall be made only if necessary to protect the health, safety, or welfare of the Association, owners, tenants, or guests.

C. To mitigate damage and take action to prevent the spread of fungus (mold, mildew, etc.) 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 stored 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.

D. 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, dry-out of units and replacement of damaged air conditioners when necessary to provide climate control in the Units.

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

F. The Board may relocate the principal office or designate alternative principal offices or authorize the officers to do so.

G. To hold Board meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.

H. To change or postpone the annual meeting date to a date and time determined by the Board, even if such change will result in not holding an annual meeting in a particular calendar year.

I. To use reserve funds to meet Association needs, and use reserve funds as collateral for Association loans.

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

K. To adopt emergency rules and regulations 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.

## 18. CONDEMNATION:

18.1 Deposit of Awards with Association. The taking of portions of the Condominium property by the exercise of the power of eminent domain shall be deemed to be a casualty, and the awards for that taking shall be deemed to be proceeds from insurance on account of casualty.

18.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by eminent domain shall also be deemed to be a casualty.

18.3 Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of the awards and special assessments will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided with respect to the ownership and distribution of insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced and the property damaged by the taking will be made usable in the manner provided below. The proceeds of the awards and special assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds by the Association after a casualty, or as elsewhere provided in this Section specifically provided.

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

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



B. Distribution of Surplus. The balance of the award in respect to the unit, if any, shall be distributed to the owner of the unit and to each mortgagee of the unit, the remittance being made payable jointly to the owner and such mortgagees.

C. Adjustment of Shares in Common Elements. If the floor area of the unit is reduced by the taking, the percentage representing the share in the common elements and of the common expenses and common surplus appurtenant to the unit shall be reduced by multiplying the percentage of the applicable unit prior to reduction by a fraction, the numerator of which shall be the area in square feet of the unit after the taking and the denominator of which shall be the area in square feet of the unit before the taking. The shares of all unit owners in the common elements, common expenses and common surplus shall then be restated as follows:

1) Add the total of all percentages of all units after reduction as aforesaid (the "Remaining Percentage Balance"); and

2) Divide each percentage for each unit after reduction as aforesaid by the Remaining Percentage Balance.

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

18.5 Unit Made Uninhabitable. If the taking of the entire unit or so reduces the size of a unit that it cannot be made substantially as habitable as the unit was prior to such taking (in the sole opinion of the Board), the award for the taking of the unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:

A. Payment of Award. The awards shall be paid first to the applicable institutional first mortgagee in amounts sufficient to pay off their mortgages in connection with each unit which is not so habitable; second, to the Association for any due and unpaid assessments; third, jointly to the affected unit owners and other mortgagees of their units. The balance, if any, shall be applied to the unit owner.

B. Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the common elements and shall be placed in a condition allowing, to the extent possible, for use by all of the unit owners in the manner approved by the Board; provided that if the cost of the work therefore shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required for capital improvements to the common elements.

C. Assessments. If the balance of the award (after payments to the unit owner and such owner's mortgagees as above provided) for the taking is not sufficient to alter the remaining portion of the Unit for use as a part of the common elements, the additional funds required for such purposes shall be raised by assessments against all of the unit owners who will continue as owners of units after the changes in the Condominium effected by the taking. The assessments shall be made in proportion to the applicable percentage shares of those owners after all adjustments to such shares effected pursuant hereto by reason of the taking.

18.6 Taking of Common Elements. Awards for the taking of common elements shall be used to render the remaining portion of the common elements usable in the manner approved by the Board; provided, that if the cost of such work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner elsewhere required for capital improvements to the common elements. The balance of the awards for the taking of common elements, if any, shall be distributed to the unit owners in the shares in which they own the common elements after adjustments to these shares effected pursuant hereto by reason of the taking. If there is a mortgage on a unit, the distribution shall be paid jointly to the owner and the mortgagees of the unit.

18.7 Amendment of Declaration. The changes in units, in the common elements, and in the ownership of the common elements and share in the common expenses and common surplus that are

affected by the taking shall be evidenced by an amendment to this Declaration of Condominium that is only required to be approved by, and executed upon the direction of, a majority of all Directors of the Association.

19. TERMINATION: The Condominium may be terminated in the following manner in addition to the manner provided in the Condominium Act:

19.1 Agreement. The Condominium may be terminated at any time by approval, in writing, of the owners of ninety percent (90%) of the units, and of the primary institutional mortgagee.

19.2 Very Substantial Damage. If the Condominium, as a result of casualty, suffers "very substantial damage" as set forth in Section 17.1, and it is not decided as therein provided that it will be reconstructed or repaired, the Condominium form of ownership will thereby terminate without further agreement.

19.3 Procedure to Approve and Implement Plan of Termination. The termination of the Condominium shall be handled as provided in Section 718.117, Fla. Stat.

19.4 New Condominium. The termination of the Condominium does not bar creation of another Condominium affecting all or any portion of the same property.

19.5 Wind-up of Association Affairs. The termination of the Condominium does not, by itself, terminate the Association. The former unit owners and their successors and assigns shall continue to be members of the Association, and the members of the Board and the officers of the Association shall continue to have the powers granted in the Condominium Documents for the purpose of winding up the affairs of the Association.

19.6 Provisions Survive Termination. The provisions of this Section 19 shall be deemed covenants running with the land, and shall survive the termination of the Condominium until all matters covered by those provisions have been completed.

20. OBLIGATION OF OWNERS:

20.1 Duty to Comply; Right to Sue. Each unit owner, his tenants and guests, and the Association shall be governed by and shall comply with the provisions of the Condominium Act, the Declaration, and the documents creating the Association, the Bylaws and the Rules and Regulations. Actions for damages or the injunctive relief, or both, for failure to comply may be brought by the Association or by a unit owner against:

- A. The Association;
- B. A unit owner;
- C. Anyone who occupies a unit; or
- D. Any member of the Board who willfully and knowingly fails to comply with these provisions.

20.2 Waiver of Rights. The failure of the Association or of a member to enforce any right, provision, covenant or condition which may be granted by the condominium documents shall not constitute a waiver of the right of the Association or member to enforce such right, provision, covenant or condition in the future.

20.3 Attorney's Fees. In any legal proceeding arising out of an alleged failure of a tenant, unit owner or the Association to comply with the requirements of the Condominium Act or the Condominium

documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the court.

20.4 No Election of Remedies. All rights, remedies and privileges granted to the Association or unit owners under any terms, provisions, covenants, or conditions of the Condominium documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising such other additional rights, remedies, or privileges as may be granted by the Condominium documents, or at law or in equity.

20.5 Notice of Lien or Suit.

A. Notice of Lien. A unit owner shall give to the Association written notice of every lien upon his unit other than for permitted mortgages, taxes and special assessments, within five (5) days after the unit owner received actual knowledge thereof.

B. Notice of Suit. A unit owner shall give notice, in writing, to the Association of every suit or other proceeding which may affect the title to his unit, such notice to be five (5) days after the unit owner received actual knowledge thereof.

C. Failure to Comply. Failure of an owner to comply with this Section 20.5 will not affect the validity of any judicial suit; however, the failure may render the owner liable to any party injured by such failure.

21. RIGHTS OF MORTGAGEES:

21.1 Approvals. Written consent of the institutional mortgage of a unit shall be required for any amendment to the Declaration which would decrease the percentage interests of the unit in the ownership of the common elements, except as provide in Section 18 relating to condemnation.

21.2 Notice. In the event of condemnation, eminent domain proceedings, or very substantial damage to, or destruction of, any unit or any part of the common elements, the record holder of any first mortgage on the unit shall be entitled to notice of any termination of the Condominium.

22. AMENDMENT OF DECLARATION: Amendments to this Declaration shall be proposed and adopted in the following manner:

22.1 Proposal. Amendments to this Declaration may be proposed by the Board of Directors or by written petition signed by the owners of one-fourth (1/4) of the units.

22.2 Procedure. Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be transmitted to the President of the Association, who shall thereupon determine which of the methods shown in Section 22.3 below shall be used for voting. The appropriate notices and copies of the proposed amendments shall be delivered to the members not later than sixty (60) days after transmittal to the President.

22.3 Vote Required. Except as otherwise provided by law, or by specific provision of the Condominium documents, this Declaration may be amended by concurrence of two-thirds (2/3) of the voting interests present in person or by proxy and voting at any annual or special meeting called for the purpose, provided that notice of each proposed amendment has been given to the members in accordance with law. Alternatively, amendments may be adopted without a meeting following the procedure set forth in the Bylaws.

22.4 Amendments By Board. The Board, by a two-thirds vote of the entire Board, may effect an amendment to the Declaration in any of the following circumstances:

A. To bring the Declaration into compliance with the provisions of subsequently enacted laws, rules or regulations adopted by governmental authority which, in the opinion of counsel for the Association, are reasonably likely to be applicable to the Association.

B. If the Board determines that as a result of new, changing or evolving technology, materials, procedures, devices or standards the Declaration should be amended to take cognizance of such matters so that the overall intent of the Declaration shall not be frustrated by changing circumstances.

C. If the Board determines, in the reasonable exercise of its judgment, that such amendment is necessary to comply with regulations of the Veterans' Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Corporation, the Federal Home Loan Bank Board or other similar governmental agency, where noncompliance with such regulations substantially interfere with, restricts or limits either the marketability of units or the ability of owners to obtain mortgage financing.

D. If the Board determines, in the reasonable exercise of its judgment, that there is a scrivener's error or other error or omission that results in an ambiguity, inconsistency or an incomplete provision, or if experience with a particular provision results in an ambiguity with respect to the practical application of such provision.

Provided, however, that no Board adopted amendment to the Declaration pursuant to this Section shall go into effect until not fewer than sixty (60) days notice of the amendment shall have been given to the owners. If, during the time between the giving of such notice and the proposed effective date stated therein, owners having not less than ten (10%) percent of all voting interests request in writing that a meeting of the owners be called, then and in such event, the Board shall call such meeting promptly, the purpose of which meeting shall be to determine whether or not the amendment adopted by the Board shall go into effect. Effectiveness of any amendment shall be suspended until the end of such meeting. At such meeting if a quorum is obtained, a majority of those present, in person or by proxy, may determine that the amendment adopted by the Board, or any part thereof, shall not be effective. If a quorum is not obtained at such meeting, or if at such meeting there is no majority vote against such amendment, then the amendment shall go into effect at the later of the date specified in the notice, or the conclusion of such meeting. Thirty (30) days after the certificate of any amendment adopted by the Board pursuant hereto is recorded in the Public Records, the authority of the Board to adopt such amendment shall be conclusively presumed, shall be binding upon all owners, and may not be challenged in any court proceeding or otherwise.

22.5 Certificate; Recording. A copy of each amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be in the form required by law and shall be executed by the President or Vice-President of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Charlotte County, Florida.

22.6 Proviso. No amendment may change the configuration or size of any unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the owner of a parcel shares the common expenses and owns the common surplus, unless the record owner of the unit and his institutional mortgagee, if any, consents in writing to the amendment. This proviso does not apply to changes caused by condemnation or a taking by eminent domain as provided in Section 18. No amendment shall operate to unlawfully discriminate against any unit owner nor against any class of unit owners.

22.7 Enlargement of Common Elements. The common elements designed by the Declaration may be enlarged by amendment of the Declaration. The amendment must describe the interest in the property and must submit the property to the terms of the Declaration. The amendment must be approved and executed as provided in Section 22.5. The amendment divests the Association of title and vests title in the unit owners without naming them and without further conveyance, in the same proportion as the undivided shares in the common elements that are appurtenant to each unit.

22.8 Correction of Errors. If there is an omission or error in this Declaration of Condominium or in other documents required by Florida law to establish the Condominium, the Association may correct the error or omission by following the procedures set forth in the Condominium Act.

23. MISCELLANEOUS:

23.1 Severability. The invalidity or unenforceability in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or incorporated by reference or word or other provision of this Declaration, or any exhibit attached thereto, shall not affect the remaining portions thereof.

23.2 Applicable Statutes. The validity, application and construction of this Declaration and its exhibits shall be governed by the Laws of Florida, particularly the Condominium Act, as it exists on the date hereof.

23.3 Conflicts. If there is a conflict between any provision of this Declaration and the Condominium Act, the Condominium Act shall control. If there is a conflict between this Declaration and the Bylaws, the Declaration shall control.

23.4 Interpretation. The Board is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.

23.5 Exhibits. There is hereby incorporated within this Declaration any materials contained in the exhibits hereto which under the Condominium Act are required to be part of the Declaration.

The Board hereby certifies the accuracy of the recitals herein and executes this Amended and Restated Declaration of Condominium this \_\_ day of April, 2014.

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Printed Name of Witness

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Printed Name of Witness

**Oak Forrest Condominium Association, Inc.**

\_\_\_\_\_  
**By: Don Rimmel, President**

\_\_\_\_\_  
**Attest: Maureen Hogan, Secretary**

STATE OF FLORIDA  
COUNTY OF CHARLOTTE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of April, 2014 by Don Rimmel, as President, and Maureen Hogan, as Secretary, of Oak Forrest Condominium Association, Inc., on behalf of the Association. They are personally known to me or have produced \_\_\_\_\_ as identification. If no type of identification is indicated they are personally known to me.

\_\_\_\_\_  
Notary Public